

<b>Planning Committee Report C/2013/0097/F</b>	<b>27<sup>th</sup> September 2017</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>	Principal Planning Officer
<b>Cost: (If applicable)</b>	N/a

**Blairs Caravans Ltd**  
**Portrush Blockyard Craigahulliar**  
**Quarry 45 Craigahulliar Road,**  
**Portrush, Co. Antrim.**

**C/2013/0097/F**  
**Full Planning**

**27<sup>th</sup> September 2017**

<b><u>App No:</u></b>	C/2013/0097/F	<b><u>Ward:</u></b>	Dundooan
<b><u>App Type:</u></b>	Full Planning		
<b><u>Address:</u></b>	Portrush Blockyard Craigahulliar Quarry 45 Craigahulliar Road Portrush Co. Antrim		
<b><u>Proposal:</u></b>	Demolition of Existing Sheds. Proposed Caravan Park including Sites for 51 no. Touring Caravans, 49 no. Static Caravans, 18 no. Camping Cabins, Manager's and Amenity Caravans, Access Roads and Landscaping. Improvement of Ballymacrea Road (including new public footpath) to improve site access and carriageway improvements at No's 39, 90m west of 59d, 59c /59g and 67 Ballymacrea Road, and at the Ballymacrea/Ballybogey Roads Junction. (Amended Certificate of Ownership)		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	22nd March 2013
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>Target Date:</u></b>	
<b><u>Applicant:</u></b>	G M Design Associates Ltd, 22 Lodge Road, Coleraine, BT52 1NB		
<b><u>Agent:</u></b>	Blairs Caravans Ltd c/o Agent		
<b><u>Objections:</u></b>	94	<b><u>Petitions of Objection:</u></b>	0
<b><u>Support:</u></b>	1	<b><u>Petitions of Support:</u></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 **APPROVE** planning permission subject to the conditions set out in section 10.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 This is a roadside site located at the south eastern side of the junction between Ballymacrea Road to the North and Craigahulliar Road to the west. The site is currently derelict and was previously a concrete works and batching plant with associated buildings and large extensive hardstanding on site.

Access to the site is from an existing road on to Ballymacrea Road which also serves the landfill facility to the southeast of the site within the former quarry. The western boundary is defined by a fence with existing semi-mature vegetation and grass bank verge separating and screening the site from the Craighulliar Road and existing residential properties. There is recent semi-mature vegetation planted along the northern boundary along Ballymacrea Road adjacent to the access point, whilst the eastern boundary is separated from the access road by fencing. The topography of the site is generally flat, but the land rises steeply at the south.

- 2.2 The site is located in the countryside outside Portrush. There are a number of properties around the Ballymacrea/Craighulliar junction, with further rural dwellings located along both roads. The site adjoins the Craighulliar ASSI and is close to the Causeway Coast and Glens AONB, although is not located within either of these designations.
- 2.3 The site is located within the rural area as defined in the Northern Area Plan 2016 and the site identifies there is an unscheduled archaeological monument.

### **3 RELEVANT HISTORY**

C/1993/0600 Craighulliar Quarry, 45 Craighulliar Road, Portrush. Change of use from quarry to landfill waste disposal facility. Granted 24.04.1995

C/2008/0191(LDE) Portrush Blockyard, Craighullier Quarry, 45 Craighullier Road, BT56 8NN. The existing use sees the concrete blockworks, operating as a satellite blockyard importing all its raw materials via heavy goods vehicles to site, via the existing access before storage within the production building prior to being made into ready mixed concrete and in turn into a variety of block sizes. The blocks are being made using 'egg laying' type machinery on the external concrete base and are left to cure. These blocks are then wrapped/strapped and placed via forklift into the stocking areas; in stacks. The blocks are then loaded onto flatbed HGV's which use their own loading hoists prior to delivery via road to customers. The two

buildings within the blockyard area are the Protection building and the Vehicle store/Maintenance Shed. Granted 14.05.2008

C/2008/0311/F 45 Craigahulliar Road, Portrush, BT56 8N.  
Erection of a concrete batching plant with an associated acoustic barrier and boundary landscaping. Deemed Invalid 18.04.2011

## **4 THE APPLICATION**

- 4.1 Planning permission is sought for a caravan park including sites for 51 no. touring caravans, 49 no. static caravans, 18 no. camping cabins with demolition of existing sheds, manager's and amenity caravans, access roads and landscaping. Improvement of Ballymacrea Road (including new public footpath) to improve site access and carriageway improvements at No's 39, 90m west of 59d, 59c /59g and 67 Ballymacrea Road, and at the Ballymacrea/Ballybogey Roads Junction.
- 4.2 The application was presented to Coleraine Borough Council's Planning Committee on 28<sup>th</sup> October 2014 with a recommendation to approve, and it was agreed to defer the application for an office meeting. This office meeting took place on Friday 21<sup>st</sup> November 2014.
- 4.3 Permission was previously granted for this proposal on 30<sup>th</sup> June 2015 by Causeway Coast and Glens Borough Council. However, following the granting of Leave by the Courts for a Judicial Review, this permission was subsequently quashed by the High Court on 8<sup>th</sup> February 2016. The application is now being considered afresh following the quashing of the previous decision.

### **Environmental Impact Assessment**

- 4.4 This proposal was subject to a Regulation 12 determination under The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.
- 4.5 The application was considered to fall within Schedule 2, Section 12(e) of the Regulations – *Permanent camp sites and caravan sites*. In accordance with Schedule 3 of the Regulations, the development was considered, having regard to the

characteristics of the development, the location of the development and the characteristics of the potential impact. It was concluded that the environmental effects from the development would predominately be limited to the site and immediate surrounding area. The proposal was not considered to be unusually complex or have any potentially significant environmental effects. The consultation did not identify any significant environmental effects from the proposal and the determination was set out in a letter dated 03.08.2017 that the proposal was not an EIA development and as such did not need to be accompanied by an Environmental Statement.

- 4.6 Having regard to the 2017 EIA Regulations, it is considered that the development proposal is unlikely to have a significant effect on the environment. As such an environmental statement is not required.

**Habitat Regulations Assessment – The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended)**

- 4.7 There is a watercourse which runs through the site, in culvert, which discharges into the sea at East Strand, and into the Skerries and Causeway SAC. There are also the Bann Estuary SAC and North Antrim Coast SAC along the north coast.
- 4.8 The applicant submitted a Draft Habitats Regulation Assessment Pursuant to Article 6(3) of the Habitats Directive, which was received by the Council on 9<sup>th</sup> June 2016. The conclusions to the Test of Likely Significance concluded that that there are no likely significant effects upon Natura 2000 sites that are likely to arise should the project proceed.
- 4.9 The application has been considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Causeway Coast and Glens Borough Council.
- 4.10 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.

## **5.0 PUBLICITY & CONSULTATIONS**

### **External**

5.1 There have been 94 (ninety four) letters of objection and 1 (one) letter of support.

5.2 The matters of concern raised by the objectors are summarised as follows:

- Increase in Traffic in the locality
- Impact on existing road access provision
- Out of character of the area
- Increased litter and noise
- Impact on Craighulliar ASSI
- Complete Environmental Impact assessment
- Complete Transport assessment
- Consideration of DRD minsters comments (Danny Kennedy)
- Full consideration of PPS16- TSM6
- The current state of the site and critical view points
- There is no need for further caravan developments in Portrush
- Impact on the countryside
- The scheme will create an eyesore
- Road safety
- Unacceptable/impact on visual amenity
- Impact on amenity
- Historical (1974) approval - remediation and reinstatement conditions

- Contrary to Coleraine Borough Council – Tourism Development Strategy
- Land ownership issues
- Privacy of surrounding residents
- Effect on local wildlife (Nearby reservoir)
- Effect on adjacent AONB
- Safety of residents and locals
- Caravan parks detract from the landscape
- The scheme will not add benefit to the economy
- Increased pollution
- Destruction of grass verges on the Ballymacrea Road
- Removal of trees on site
- The proposed development will be unsightly
- Condition of existing roads unable to sustain additional large caravans
- Impact on horse riders and cyclists from this land use/ Negative effect on the “Cycle Network” of the Ballymacrea Road
- Natural screening on the site has been removed and provided open views of the site.
- Illegal dumping of stones and material on site
- The Council should be promoting Portrush and not allowing additional caravan sites
- Surplus of caravans site in the locality
- The infrastructure of the area cannot cope with this land use
- Removal of established hedging along the Ballymacrea Road
- No consultation with environmental agencies
- Limited consultation with statutory consultees
- The information in case officers report is factually incorrect



- Is there a need for this development? Does the area have the capacity for this land use?
- Assessment of prospective users of the park due to the adjacent landfill use
- PPS4 PED8 (Consideration of this policy)
- Legal challenge for the owners of this site against the adjacent landfill site
- Passing bays will not solve increased traffic concerns
- Transport assessment form has not be submitted
- The transport assessment form submitted by the applicant's agent should not have been accepted it was inexpert.
- No information presented on traffic generation and the data which has been provided is historic and out of date.
- Lack of pedestrian facilities
- The traffic assessment does not address issue in the area and there was no mention of public transport.
- The TA contravenes policy AMP6 and AMP2 of PSS3.
- Visibility splays are sub-standard when judged against the proposed use.
- Encroachment of vehicles on private property
- No parking bays proposed between craigahulliar and the Ballywillan crossroads
- Inadequate sewerage system for this land use
- The Council has a duty of care to protect the public from this development
- The impact on neighbours in the hamlet of Craigahulliar
- Flood water from the site affecting adjacent premises
- Trip generation to the site has not been considered
- Q25 on the P1 form has not be filled out correctly

- Question over passing bay 2 in terms of who owns the land.
- Questions over the suitability of the proposed parking bays
- Smells and odours from the existing and proposed land use
- Remedial work should be taken to improve existing site conditions
- Site levels
- No evidence of appropriate community consultation from the applicant
- No appropriate landscape assessment
- Previous uses on site
- The scheme to contrary to the principles of the SPPS and current planning policy
- Potential road accidents
- Light pollution
- PSNI comments in relation to the danger of the Ballymacrea Road
- The performance of TNI and the consultations responses which they have provided have been inaccurate and poor.

5.3 The representation made in support of the application has raised the following matters:

- Assured this is family orientated
- The cutting down of trees now allows the sun to reach the road and melt the ice
- Have no record of a high volume of accidents along the road except in icy conditions, and not every day of the week
- Have looked at an “eye-sore” so a few caravans, well maintained, would be most welcome.

#### 5.4 Internal

**Consultation has been carried out with the following departments:**

**DfI Roads:** Has no objection to the proposal subject to conditions.

**Environmental Health:** Has no objection to the proposal subject to conditions.

**Northern Ireland Tourist Board:** Comments that the location for the proposed development falls within one of the 'key tourism areas' identified in the Consultation on a Tourism Strategy for Northern Ireland, identifying these tourism areas' as the building blocks of tourism.

**Rivers Agency:** Has accepted the methodology used to produce the Flood Risk Assessment and has no objection subject to a condition.

**NIEA Historic Monuments Unit:** Has no objection to this proposal.

**NIEA Land and Resource Management Unit:** Has no objection to this proposal subject to conditions.

**Northern Ireland Water:** Has no objection to this proposal.

**Shared Environmental Services:** Has no objection to the proposal.

## **MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development 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 (NAP)
- 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**

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Regional Development Strategy (RDS)

Planning Policy Statement 2 (PPS 2) Natural Heritage

Planning Policy Statement 3 (PPS3): Access Movement and Parking

Planning Policy Statement 4 (PPS 4): Planning and Economic Development

Planning Policy Statement 6 (PPS 6): Planning Archaeology and the Built Heritage

Planning Policy Statement 11 (PPS 11): Planning and Waste Management

Revised Planning Policy Statement 15 (PPS 15): Planning and Flood Risk

Planning Policy Statement 16 (PPS 16): Tourism

Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside

Supplementary Planning Guidance

Parking Standards

Northern Ireland Regional Landscape Character Assessment

Northern Ireland Landscape Character Assessment

DCAN 15: Vehicular Access Standards

DEARA Planning Standard Advice Note 23

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to Planning history and fall-back; principle of the development (PPS4/PPS 16/SPPS); traffic/road issues; impact on amenity; flooding and land drainage; compatibility of development with adjacent land uses (PPS11); Impact on designated sites; and other matters.

### **Planning Policy**

8.2 The RDS promotes a sustainable approach to the provision of tourism infrastructure. The principle of development proposed must be considered having regard to the Northern Area Plan (NAP), the SPPS, and relevant Planning Policy Statements specified above.

8.3 The site is not within any specific zonings or designations adopted through the Northern Area Plan 2016. However, there is an unscheduled site and monument identified within the site. The land to the north and east is an Area of Outstanding Natural Beauty and to the east is Craighulliar ASSI.

8.4 The site is located within the rural area as defined by the Northern Area Plan. The site is located adjacent to Ballymacrea/Craigahulliar Roads.

8.5 NAP does not have any specific policy on Tourism, however, it states on page 17 that “Tourism related development consistent with the principles of sustainable development and the protection of the Northern Plan Area’s finest landscapes will be provided in line with regional planning policies”. The Strategy Plan

Framework (Vol 1) of NAP (pg. 37) also recognises the decline in serviced accommodation in the post war period and increased use of caravans. It acknowledges recent growth in second homes and how this pressure for second homes is often in the most sensitive locations. NAP advises of the need for quality accommodation and visitor infrastructure in order to realise the tourism potential of the area. NAP promotes tourism development in general but never at the expense of the natural and built environment of which the industry relies and in which local people live.

- 8.6 In Volume 2 of NAP, page 84 explains that despite major changes to tourism throughout the Post War period, Portrush continues to thrive. While there has been a steady decline in the quantity of hotel and guesthouse accommodation, there has been considerable improvement in the quality of the remaining accommodation. There was rapid growth up until the 1970s of static caravans, and subsequently of holiday homes. The town continues to have a wide range of leisure and entertainment facilities.
- 8.7 The Strategy Plan Framework (Vol 1) (Pg. 37) of NAP states that prevailing regional planning policy provides for the framework for identifying appropriate development opportunities and safeguarding tourism assets from harmful development. The proposal is therefore not contrary to NAP subject to the proposal being compliant with regional planning policy. It references PPS 16 Tourism and PPS 21 Sustainable Development in the Countryside as regional policy for tourism development.

### **Planning History and Fall Back Position**

- 8.8 The site has historically been used as a concrete blockyard and batching plant. A portion of this site (just over half) has been subject to a Certificate of Lawfulness for Existing Use or Development (CLEUD) C/2008/0171, which has established the use of this land and buildings as a concrete blockyard. This certificate means that a concrete blockyard could, at any time, begin operating within this site without the need for a planning application. This is a material consideration in assessing the proposed caravan site.

8.9 An objection, on behalf of the objectors, argues that there is no lawfully established fall-back position. It is argued that as the CLEUD was granted on the basis it was immune from enforcement at the time it was issued, and the use has subsequently ceased, there is no fall-back position. The objection goes on to state that as there was no retrospective planning application on the foot of the CLEUD being granted, this use is no longer immune from enforcement action, and it cannot be resumed with immunity from enforcement as a separate planning permission is required. The basis for this objection is in relation to a legal case, and refers to the *Thurrock v Secretary of State and Terry Holding* case. The submitted objection did not include a copy of this judgement.

8.10 It appears the *Thurrock v Secretary of State and Terry Holding* judgement was concerned with the time periods for serving an enforcement notice, and the Inspectorate's decision, on behalf of the Secretary of State, to allow the appeal against the enforcement notice. This judgement ruled that the inspector had misunderstood the judgment in *Panton & Farmer v SoS & Vale of White Horse DC*. It does not appear this judgement relates to the issue of a CLEUD being granted and the reliance of this as a fall-back position.

8.11 In Planning Law, a CLUD (CLEUD OR CLOPUD) conveys immunity from potential enforcement and makes a development legally 'lawful'. In *M. & M. (Land) Limited v Secretary of State for Communities and Local Government 2007*, the judgement ruled that a land use which is the subject of a CLUD is in no stronger a position than one allowed by the a grant of planning permission. Therefore, the converse is true and that the granting of a CLUD would be in no stronger a position than if planning permission had been granted. Therefore, little weight is attached to the *Thurrock v Secretary of State and Terry Holding* judgement.

8.12 However, as the objector has raised the issue of a fall-back position, there is a need to consider if the use as a blockyard, established through the CLEUD, has been abandoned. The tests for this are set out in by the *Court of Appeal in Hughes v Secretary of State for the Environment, Transport and the Regions & South Holland DC [2000]*. These tests include the physical condition of the building; the length of time for which the building had not been used, whether it had been used for any

other purposes; and the owner's intentions. The buildings still remain and the physical condition, when the planning application was submitted, was that of a blockyard. A satellite image of the land shows blocks still on site in July 2011. The application was submitted in early 2013, about 18 months after the satellite image showed blocks on site. It does not appear that the land has been used for any other purpose, other than importing spoil onto the site in accordance with the previous permission and prior to the quashing of this decision, which is still on site. The owner's intention was to change the use of the blockyard to a caravan park, which is the subject of this application. Having regard to these factors, it is not considered that the previous use has been abandoned.

8.13 The *Gambone v Secretary of State for Communities and Local Government (2014) EWHC 952 (Admin)* case makes clear that once the question of whether or not the fall-back matter is material to the decision has been concluded, which is accepted here, the question for the decision maker is what weight should be attached to it. Ian Dove QC (sitting as a High Court judge), said that the weight which might be attached to the fall-back position will vary materially from case to case and will be particularly fact sensitive.

8.14 In this case, officials are of the opinion that, should the concrete blockyard use recommence, that this industrial use in the countryside, with HGV's coming to and from the site, is likely to have a greater impact on the countryside and its environs than a tourism use of a holiday park. Therefore significant weight is apportioned to the fall-back position of the planning history as a material consideration. Weight to be attached to material considerations is a matter for the decision maker alone to determine. In *Tesco Stores Ltd v SOS for the Environment and ors (1995)*, Lord Hoffman said that providing the Planning Authority has regard to all material considerations, it is at liberty (subject to the *Wednesbury* unreasonableness test) to give them whatever weight the planning authority thinks fit or no weight at all. Given the foregoing, the Council's position cannot be considered to fall foul to the *Wednesbury* unreasonableness test.



8.15 Therefore, having regard to the planning history, it is considered there is a fall-back position of a concrete blockyard to lawfully operate at this site.

### **Principle of Development**

8.16 In land use terms, the land is considered to formerly be an industrial use which is considered under PPS 4 "Economic Development". This land does not form part or all of an industrial estate, and the redevelopment for proposals to a use other than for economic development, is limited. However, tourism is one of the uses that is considered to be acceptable, with policy PED 4 stating that proposals for the redevelopment of economic development sites for tourism will be viewed sympathetically, provided this does not involve an existing industrial estate and the following criteria can be met:

*(a) The scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area.*

It is not considered that the scale and nature of this proposal would harm the rural character or the local area given the existing use of the land, the existing and proposed vegetation and landscaping, and the existing built development and uses in the surrounding area.

*(b) There would be environmental benefits as a result of the redevelopment.*

The existing site is almost entirely covered in hardstanding, with several buildings. This proposal would be a more sympathetic use than a concrete block yard. The proposal would soften the large mass of hardstanding with grass, landscaping, and open space which will result in environmental benefits.

*(c) The redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site.*

This criterion would be more applicable when redeveloping to another industrial use and where there is residual land, but the scheme deals comprehensively with the entirety of existing site.

*(d) The overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.*

The impact of the new buildings is not significantly greater than the existing. The site is reasonably screened which helps aid the visual integration of the proposal. A significant proportion of the site, particularly to the north, next to Ballymacrea Road will be used for touring caravans. This will assist in reducing the visual impact as the use will likely be transitory with limited occupancy off season.

8.17 It is therefore considered that the proposal is consistent with policy PED 4 of PPS 4.

### **PPS 16**

8.18 This proposal is for a new tourist facility in the countryside. Policy CTY 1 of PPS 21 Sustainable Development in the Countryside directs that planning permission will be granted for tourism development in accordance with the TOU policies of the Planning Strategy for Rural Northern Ireland. These TOU policies have been superseded by PPS 16. Therefore PPS 16 provides the main policy basis to assess the proposal. The most relevant policy in PPS 16 is TSM 6 New and Extended Holiday Parks in the Countryside. Also relevant is TSM 7 Criteria for Tourism Development. TSM 6 recognises that holiday parks are important for the domestic tourism market in terms of the volume of rural tourism bed spaces they provide, and the economic benefits that flow from this scale of tourism activity.

8.19 Annex 1 of PPS 16 defines a holiday park as a caravan site licensed under the Caravans Act (NI) 1963, which in addition to static caravans may also contain holiday chalets or cabins, pitches for touring caravans, motor homes and tenting. Therefore this proposal would be considered as a Holiday Park as defined in PPS 16. Policy TSM 6 states that planning permission will be granted for a new holiday park or an extension to an existing facility where it is demonstrated that the

proposal will create a high quality and sustainable form of tourism development.

8.20 The location, siting, size, design, layout and landscaping of the holiday park proposal must be based on an overall design concept that respects the surrounding landscape, rural character and site context. This proposal is within an existing industrial site which will be replaced with a landscaped environment of a proposed caravan park, which will be much softer than the hardstanding and buildings. The surrounding landscape, rural character and site context have been respected.

8.21 Proposals for holiday park development must be accompanied by a layout and landscaping plan, which has been provided in this case. Submitted pre and post visuals showing the existing and proposed views were received by the Council on 1<sup>st</sup> September 2016. TSM 6 of PPS 16 requires that all proposals must meet a set list of criteria (a-g). Criterion (a) requires that *the site is located in an area that has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character* while criterion (b) requires *effective integration into the landscape must be secured primarily through the utilisation of existing natural or built features. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist its integration with the surrounding area.* This assessment is set out in paragraphs 8.22-8.30 of this report.

8.22 The site is assessed in its local context in this regard along with the Regional and Local Landscape Character Assessments.

#### **Northern Ireland Regional Landscape Character Assessment**

8.23 The site is located within Northern Ireland Regional Landscape Character Assessment area 16 – North Coast and Bush Valley. Although there are adjacent Seascape Character Areas, including the Skerries and Dunluce Coast, it is considered that the site is sufficiently far removed from this part of the coastline to have any significant impact or effect on the seascape character.

8.24 One of the Key Characteristics of this RLCA identifies the rich natural and historical interest of the area which makes it a popular tourist destination for the many popular attractions and comments that holiday home and caravan parks are frequent throughout the

area. The site is not located within any of the key characteristic areas identified, such as the rugged cliffs, sandy bays, Bush Valley, or Garry Bog. Having regard to the Characteristics, the Natural, Cultural and Perceptual Influences, it is considered that the proposed development is unlikely to have any unacceptable or significant impact on these.

- 8.25 The Assessment accepts that the popularity of tourism and tourist attractions for visitors is likely to bring continued pressure for infrastructure, including caravan parks, which it says can form relatively prominent features along this coast. This will not be a prominent feature along the coast as the site is inland from the coast.
- 8.26 In considering this Assessment, it is unlikely that this proposal will have any unacceptable impact on the North Coast and Bush Valley RLCA due to the above.

### **Northern Ireland Landscape Character Assessment**

- 8.27 In the Northern Ireland Landscape Character Assessment 2000, the site is located within LCA 57 Causeway Coast and Rathlin Island which identifies the key characteristics as:

- High plateau landscape with distinctive rugged coast, stepped profile and rocky knolls. Coast includes unique formation of the Giant's Causeway.
- Exposed sheep grazed landscape of windswept trees and broken walls; gorse on rocky knolls separates small fields of rough grazing.
- Rural landscape with villages associated with coastal bays; large, white hotels on cliff tops; modern bungalows; old derelict cottages on knolls.
- Ruined castles on cliff top locations along the coast. Long views are available from elevated areas across the coast and inland.

- 8.28 It recognises that the Causeway Coast is designated as an AONB reflecting its nationally important landscape status and pristine condition, and although this site is located close to the AONB, it is not within the AONB. With regards to the principle for

accommodating new development, and considering tourism, it states that the location of caravan sites, in less visually prominent positions, set amongst trees or in hollows rather than on exposed cliff-tops is advisable. Such development would be particularly intrusive and should be kept to a minimum.

8.29 This site is not on an exposed cliff-top and is on an area of land that has been previously used as a concrete blockyard and is in a fairly degraded state. It is beside an area where there is a cluster of houses on the Ballymcrea/Craigahulliar Roads Junction, and there is vegetation/trees around the perimeter of the site. There is also a landfill site to the south which is on much higher and more prominent ground. Having regard to the commentary in LCA 57, it is considered that the proposal is unlikely to have any adverse impact on visual amenity or rural character due to its location adjacent to existing development and the previous use within the site.

8.30 Following removal of trees to the north of the site, some small saplings and a row of semi-mature trees behind these have now been planted in lieu of this and provide partial screening to the site. Having regard to the previous land use, and the hard industrial nature of this, and both the RCLA and LCA assessments, the landscape at this site has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character. The combination of the existing vegetation and further landscaping proposed will provide effective screening for the development and will further reduce any visual impact, or impact upon the rural character. The proposal satisfies point (a) of this policy. Consideration of this matter also addresses points (c), (d), and (g) of TSM 7.

8.31 Criterion (c) of TSM 6 requires *adequate provision (normally around 15% of the site area) is made for communal open space (including play and recreation areas and landscaped areas), as an integral part of the development.*

8.32 Approximately 30% of this site will be for open space in accordance with TSM 6. This figure includes the landscaped buffer/bund and without this included in the open space calculation the proposal still delivers some 20% which is over the normal requirement of 15%. Therefore, there is appropriate land within the development for communal open space, designed as

an integral part of the development. This includes a defined open space play area and a landscaped walk with viewing platform to the south of the site.

8.33 Criteria (d) and (e) of TSM 6 seek *the layout of caravan pitches / motor homes is informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping; and the design of the development, including the design and scale of ancillary buildings and the design of other elements including internal roads, paths, car parking areas, walls and fences, is appropriate for the site and the locality, respecting the best local traditions of form, materials and detailing.* This is supported by Appendix 4 - Landscape Design Considerations for Holiday Parks.

8.34 The proposal has an informal layout as opposed to the more traditional 'regimented' rows of caravans associated with long standing caravan parks. The site is divided into 9 'clusters' with open space and landscaping between these. The ancillary buildings will be housed within caravan style buildings and the form, layout and materials of all paths/walkways and internal roads are acceptable. The proposal includes additional landscaping to augment and support any existing vegetation, and having regard to the existing visual impact of the site, is considered to comply with these policy tests.

8.35 Mains water supply and sewerage services are to be utilised as identified on the P1 form and the proposal is compliant with criterion (g).

8.36 Having regard to the Policy TSM 6 and TSM 7, it is considered that this proposal is consistent with these policy tests.

### **Strategic Planning Policy Statement (SPPS)**

8.37 Paragraph 6.255 states that the aim of the SPPS in relation to tourism development is to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment.

8.38 It goes on to explain that acceptable tourist development in the countryside may include a new or extended holiday park that must be a high quality and sustainable form of tourism development. It continues under paragraph 6.265 that a positive

approach should be adopted in determining applications for tourism development so long as proposals are sustainable, are in accordance with the LDP, and will result in high quality forms of development. Important considerations will include whether the nature, scale and design of the specific proposal is appropriate to the site context. Paragraph 6.266 states that applications for tourism development will also be assessed in accordance with normal planning criteria such as access arrangements, design, environmental and amenity impacts so as to ensure high quality, safe and otherwise satisfactory forms of development.

- 8.39 The proposal is located adjacent to a section of the existing cycle network. There is no public transport along Ballymacrea Road, and the nearest train and bus stations are located within Portrush. The surface water drainage is acceptable as confirmed by Rivers Agency. The proposal has one point of entrance and egress and is designed in accordance with Appendix 4 of PPS 16. The proposed development is designed to deter crime and promotes personal safety with all caravans orientated around a 'central core' within each group or cluster. No public art has been proposed as part of the scheme.
- 8.40 Having regard to the SPPS, these policies dealing with new or extended holiday parks in the countryside do not conflict with the retained policies within existing planning policy documents. Consequently, as set out under the considerations of the Northern Area Plan and PPS 16: Tourism, the proposal is consistent with the SPPS.
- 8.41 This proposal is consistent with the policy criteria as stated in TSM 6 and Appendix 4 and those applicable criteria in TSM7 of PPS 16. The proposal is also consistent with the SPPS.

### **Traffic/road issues**

- 8.42 The proposal includes works to upgrade the existing access, realign part of the Ballymacrea Road, construct 4 passing bays along the Ballymacrea Road, and works to the existing Ballymacrea Road/Ballybogey Road junction. There has been substantial objection in relation to the traffic matters with extensive consultation with DfI Roads (formerly Transport NI) who is the competent authority on traffic related matters.

- 8.43 During processing of the application DfI Roads raised concerns in relation to visibility, geometry of access and other technical details. The applicant submitted a Transport Statement received on 4<sup>th</sup> December 2013, and in response to objections, a Transport Assessment Form (TAF), which was received on 5<sup>th</sup> September 2016. A meeting was also held between objectors and DfI Roads on 6<sup>th</sup> February 2017.
- 8.44 On receipt of the TAF, DfI Roads responded recommending approval conditions and informatives, as outlined in its previous responses. In a consultation response to the report prepared by Lisbane Consulting, on behalf of objectors, DfI Roads still remained satisfied with the planning application. This was outlined in a letter from the Roads Divisional Manager, Deirdre Mackle, to Mr Smyth dated 4<sup>th</sup> January 2016 (*sic*), in response to a letter sent to the then DfI Minister Mr Chris Hazard MLA dated 12<sup>th</sup> December 2016. DfI Roads consideration is set out below in paragraphs 8.45 to 8.50.
- 8.45 The proposed layout plan titled 'Improvements to Ballymacrea Road Access' Drawing 05B dated 21st May 2014 indicated access visibility splays of 4.5m x 90m east and 4.5 x 90m (to tangent point) to the west. These splays are sufficient for the estimated traffic speeds of 37mph on this portion of Ballymacrea Road.
- 8.46 The proposed layout plan also indicated the realignment and widening of a portion of Ballymacrea Road at the access point and to the western side of the access. This provided an increased forward visibility and the 70m achievable forward visibility meets the bracketed figure in DCAN 15 for traffic speeds of 37mph. The proposal also includes a 2m wide footpath to the junction with Craighulliar Road and a 1.3m wide connecting footpath to the existing footpath at Skerryview.
- 8.47 Objectors have raised issue with the lack of a footpath extending the extent of Ballymacrea Road to Ballywillan Road, and extending the existing footpath on the Ballywillan Road up to the Ballymacrea Road. Officials have investigated this matter with DfI Roads and, as the competent authority on such matters, consider the proposal does not justify a footpath of this length. Officials are satisfied with this position.



- 8.48 The four proposed passing bays along Ballymacrea Road and the junction improvement at the Ballybogey Road/Ballymacrea Road junction are all contained within the public maintained verge and will assist in accommodating any additional traffic generated by this proposal. Although objectors have raised concern about the passing bays, DfI Roads has confirmed that if 2 cars towing caravans meet, then they may need to pull up onto the grass verge to pass one another, but the passing bays are an acceptable mitigation measure. There was also concern raised that any car/caravan which pulls into the parking bay will impact on visibility splays or potential access points. However, DfI Roads has clarified that this obstruction would only be momentarily as the car/caravan will then move once traffic has passed.
- 8.49 The answers 'No' stated in Part A of the submitted Transport Assessment Form (TAF) to the different typologies of development were acceptable. DfI Roads considered the suggested proposal for a Caravan Park is not deemed 'permanent residential use' and would be classed as sui generis (for seasonal use); therefore the remaining parts to the TAF would not have to be completed.
- 8.50 This letter also confirmed that DfI Roads considered the content of the report prepared by Lisbane Consultants, on behalf of the objectors and remained satisfied that the existing Ballymacrea Road with the suggested improvements will accommodate the traffic generated by this proposal.
- 8.51 Caravans do not fall with Class C1: Dwellinghouses of The Planning (Use Classes) Order (Northern Ireland) 2015. Rather, they are a (non-specified) sui-generis use of the land. The typology of "residential comprising 10 or more units" as set out in the Transport Assessment Form (TAF) relates to the classification of "housing" as described in Paragraph 3.5 of the Transport Assessment Guidelines. Therefore the approach of DfI Roads regarding this matter in Paragraph 8.49 is agreed and as such, completion of the "residential comprising 10 or more units" on the TAF is not applicable to the proposal.
- 8.52 On 27<sup>th</sup> April 2017, an objector wrote to Peter May, Permanent Secretary of the Department for Infrastructure, raising concerns on traffic and roads issues, and how this was handled

procedurally. A copy of this letter was sent to Council asking that it be uploaded onto the Planning Portal, which it was. DfI Roads responded to this letter raising no concern.

- 8.53 Reference was made to traffic figures and speeds set out within a previous planning application relating to the concrete blockyard previously on site (Ref: C/2008/0311/F). However, those were the figures and speeds presented at that time many years ago and greater weight is given to the information submitted with this planning application and that DfI Roads raises no objection to the proposal and is satisfied the mitigating measures proposed by the applicant (passing bays, corner /junction/access improvements) will safely accommodate the additional traffic generated by this proposal.
- 8.54 Policy AMP 2 of PPS 3 relates to Access to Public Roads. The policy states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:
- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
  - b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.
- 8.55 DfI Roads has been consulted as the competent authority on road safety and traffic flows and it raises no objection. Therefore, having regard to the proposal as a caravan park, the previous use as a concrete blockyard, and the existing landfill site, that the proposal improves an existing access, and the current speeds and increase in traffic, it is considered that the access will not prejudice road safety or significantly inconvenience traffic flows. As Ballymacrea Road is not a protected route, criterion (b) does not apply to this proposal. The proposal is therefore consistent with the requirements of Policy AMP 2 of PPS 3.

## **Impact on Amenity**

- 8.56 Paragraph 3.8 of the SPPS sets out the guiding principle for planning authorities in determining planning applications. It states that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Criterion (h) of TSM 7 also refers to the consideration of harm on the amenities of nearby residents.
- 8.57 Paragraph 8.23-8.30 of this report considers visual impact while paragraphs 8.40-8.56 consider the traffic and road impacts. Environmental Health has been consulted as the competent authority on impact on people and raises no objection. Given the separation distance and the existing and further planting proposed on the perimeter of the site, this mitigating effect would result in limited impact on amenity. No general concerns have been raised in consultation with Environmental Health on the matter. Having regard to the proposed use as a caravan park and all other material considerations, including the nature and future users of the proposal, it is considered that the proposal will not cause demonstrable harm to the amenity of nearby residents, including any smell and odour.

## **Flooding and land drainage**

- 8.58 A Flood Risk Assessment was received on 5<sup>th</sup> July 2013. On initial consultation with Rivers Agency, it identified that Rivers Agency has no records of flooding at the site, but that records indicated flooding emanating from the site at 3 locations which has affected nearby properties and roads. A Drainage Assessment was received on 9<sup>th</sup> June 2016. A watercourse flows through the site in culvert. On consulting Rivers Agency as the competent authority on flooding and drainage matters, it raises no objection to the proposal from a drainage or flood risk perspective. The proposal is therefore consistent with Policy FLD 3 Development and Surface Water Flood Risk outside of Floodplains and Policy FLD 4 Artificial Modification of Watercourses of PPS 15.

## Compatibility of development with adjacent land uses

- 8.59 Criterion (g) of TSM 7 states that any proposal needs to be *compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area*. The site is also located in proximity to an existing land fill site and Policy WM 5 of PPS 11 states that: *Proposals involving the development of land in the vicinity of existing or approved waste management facilities and waste water treatment works (WWTWs), will only be permitted where all the following criteria are met:*
- *it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and*
  - *it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.*
- 8.60 Objectors have raised another policy issue; PED 8 of PPS 4. This policy states that *a proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused*. However, for the purpose of PPS 4, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' of the Planning (Use Classes) Order (Northern Ireland) 2015. Therefore, as a landfill site is not within Part B of the Use Class Order, PED 8 does not apply to this proposal. Policy WM 5 is the appropriate policy context.
- 8.61 There is an existing non-hazardous landfill site close to the proposal. A landfill is considered to be a waste management facility, and there is a policy, WM 5, within PPS 11 which covers development in the vicinity of waste management facilities. This policy requires that proposals near to a waste management facility must not prejudice or restrict activities permitted to be carried out at such facilities, and not give rise to unacceptable adverse impacts in terms of people, transportation systems, or the environment. In all cases advice will be sought from Environmental Health. Both Environmental Health and NIEA Land and Resource Management have been consulted and neither has raised any objection to the proposal, subject to specific conditions being imposed on any planning permission granted.

- 8.62 The proposed and existing uses will share an existing access onto a private route from the Ballymacrea Road. There will then be a separate access into the proposed caravan site which is segregated by an acoustic barrier in the form of a large earth bund, which would also be planted.
- 8.63 It has been agreed that the proposed acoustic barrier provides no noise protection from Ballymacrea Road. However, this barrier/bund provides protection from noise impacts/HGVs using the private access route. This acoustic barrier has the added benefit of reducing noise impacts from the same noise impacts/HGV movements along the private access route and at existing properties along the Craighulliar Road. Environmental Health has confirmed that any further noise impacts on the proposal would be of marginal significance, and any further traffic associated with the landfill operation would also be mitigated against by the acoustic barrier.
- 8.64 Policy WM 5 requires the consideration of odour. It should be noted that the current landfill site has a management licence issued by NIEA which has a management condition in relation to odour. Furthermore the landfill site has a “landfill engine” with the operator sucking gases produced within the landfill to produce power.
- 8.65 The landfill is situated on higher ground to the south of the proposal. Although any traffic using the access to the landfill is in proximity to the caravans, an earth bund acting as an acoustic barrier will screen and mitigate against any potential nuisance.
- 8.66 Therefore, in considering the current nature of the landfill, the local topography, and the advice from both Environmental Health and NIEA, this proposal is unlikely to restrict any activities within the landfill site, or result in any unacceptable adverse impacts as set out in Policy WM5. This proposal accords with this policy, and is considered to be acceptable within the vicinity of the existing landfill site.

### **Designated Sites**

- 8.67 Criterion (f) of TSM 6 requires *environmental assets including features of the archaeological and built heritage, natural habitats, trees and landscape features are identified and, where*

*appropriate, retained and integrated in a suitable manner into the overall design and layout;* and criterion (i) of policy TSM 7 requires that any proposal *does not adversely affect features of the natural or built heritage.* Paragraph 6.265 of the SPPS identifies design as a particularly important consideration when considering the impact of tourism development proposals in the countryside particularly within areas designated for their landscape, natural or cultural heritage properties. Paragraph 6.262 of the SPPS also states that planning permission should not be granted for development that would, have an adverse impact on a tourism asset, such as to significantly compromise its tourism value. The AONB is an example cited as a tourism asset. However, although the site lies outside the AONB, it is close to the boundary.

### **AONB**

- 8.68 The Causeway Coast AONB extends for approx. 30km along the North Antrim Coast and contains a wide variety of different landscapes including the Giant's Causeway World Heritage Site. This application site is located outside the western extent of the AONB boundary. The western part of the AONB is characterised by an extensive dune system at East Strand. It also includes a dramatic stretch of alternating white chalk and black basalt cliffs. Dunluce Castle forms a spectacular landmark with views of Donegal and the Skerries to the north.
- 8.69 Having regard to the merits of the AONB set out in paragraph 8.69 and given this landscape where the application is proposed is already degraded, has existing development and a landfill site on a prominent position, lies outside the western boundary of the AONB, and will have no detrimental impact on the East Strand, Dunluce Castle, or the coastline, it is considered that the proposal will not have a significant environmental or a significant visual impact which will compromise the AONB's value.

### **Archaeology**

- 8.70 There is an unscheduled archaeological site and monument indicated within the site. The Historic Environment Division (formerly NIEA: Historic Monuments Unit) was consulted as the competent authority on archaeological matters and raises no archaeological objection.

## **ASSI**

- 8.71 The site is adjacent to Craighulliar ASSI. There is commentary within LCA 57 regarding Craighulliar ASSI recognising that the site is particularly important for the diversity of basaltic and related rock type and include the lower of the Interbasaltic 'red beds' and the first flows of the Causeway Basalts.
- 8.72 NIEA: Natural Environment Division has been consulted as the competent authority on ASSIs. It has considered potential damage to the geological features of Craighulliar ASSI through contamination (e.g. metals, hydrocarbons, VOCs, leachates). It has assessed that although the proposed site is immediately adjacent to Craighulliar ASSI, it lies outside the boundary of the designated site. Natural Environment Division are content that the proposal will not impact upon the geological features of the designated site, provided all construction activity and materials (including spoil) are confined within the site boundaries and the designated area is not disturbed in any way. A condition will be attached ensuring the ASSI is protected.
- 8.73 Having regard to the designated sites, it is considered that the proposal is consistent with the criteria set out in policies NH1, NH3, and NH6 of PPS 2, and it is unlikely to have any significant impact upon these designated sites which would warrant the withholding of planning permission.

## **Other matters**

- 8.74 Notwithstanding that many of the matters raised by objectors have been considered under the subject headings within this report, further consideration is given below to address any outstanding objections and issues:
- Coleraine Borough Council (CBC) employed the services of Peter Fleming of Fleming Mountstephen to carry out an independent planning report into this application. This report was for those members of CBC at that time, and gave an analysis and critique of the then DOE case officer's report. The relevant matters within that report have been considered, including the comments relating to the failure to consider policy PED 8 of PPS 4 (para 8.60).
  - Any comments of the then DRD Minister, Danny Kennedy, are a matter for DfI Roads and are given limited weight in

considering this application as substantial consultation and consideration with DfI Roads has been carried out.

- There is no requirement for an applicant to demonstrate need for a proposed holiday park as this is not a planning policy test.
- As this application was submitted before the introduction of the Planning Act (Northern Ireland) 2011, enacted in 2015, there was no legal requirement to carry out formal community consultation. However, in any event, consultation with the local community took place in an event held at the Magherabouy Hotel on Wednesday 6<sup>th</sup> March 2013, prior to the application being submitted at the end of March 2013.
- Coleraine Borough Council Tourism Strategy - This document is afforded little weight as it was a Coleraine Borough Council document, it has not been through any public examination or inquiry and is not a statutory planning document. Furthermore, the Council has published the Causeway Coast and Glens Tourism Strategy in 2015.
- The issue regarding land ownership; it is important to state that the planning authority has no jurisdiction in land ownership disputes as this is a matter for the courts, and sits outside the remit of planning. Nevertheless, the planning authority does have a duty to ensure the correct certificate is signed on the P1 form as part of the application, and to ensure that no party is prejudiced. As this matter was challenged the planning authority has investigated this issue. In this regard, the planning authority informed the agent/applicant of a land ownership challenge. It was stated by the applicant's agent that all the land is within the applicant's ownership and the proposed road widening works are contained within the public roadway and verge. The relevant process of serving notice on DfI Roads who are in control of this land has been carried out, and the appropriate certificates have been signed. The planning authority is satisfied that no prejudice has been caused to interested parties involved. An informative will be added to any decision advising that the permission does not confer title and it is the responsibility of the developer to ensure they control all the lands necessary to carry out the proposed development.



- In relation to the planning history of the site, there was a 1974 application (C/416/74) for quarrying on site, with a 15 year condition on the restoration of the land. It is considered that remediation matters are now immune from enforcement. It must also be noted that the CLUD (C/2008/0191) for the blockyard referred to in para 8.8-8.15 of this report means that this use is established, and can recommence at any time.
- Effect on local wildlife (Nearby reservoir) – A Habitats Regulation Assessment and a Phase 1 Habitat & Protected Species Survey have been carried out. NIEA NED has been consulted and raises no objection on ecology grounds subject to conditions. The reservoir is located close to Corbally Road, and about 300 metres from the application site. It is unlikely the proposal will have any detrimental impact on this reservoir and is consistent with Policies NH 2 and NH 5 of PPS 2.
- Drawings and cross sections have been submitted indicating existing and proposed site levels.
- Regard has been given to Standing Advice Note 23 which says that all proposed developments should connect to a mains sewer, where available, and providing that the sewer and associated Waste Water Treatment Works (WWTW) can take the additional load. This proposal will connect to mains and NIW has indicated that this is possible. It is considered that the conditions set out in this advice note are not relevant to this application when assessing the nature and type of proposal.

## **9.0 CONCLUSION**

- 9.1 As the proposal complies with PPS 16, satisfactorily integrates into the countryside, and does not affect the rural character, it does not conflict with Policy CTY 1 of PPS 21.
- 9.2 The proposed development is considered acceptable in this location having regard to the Northern Area Plan and other material considerations, including the SPPS. The proposal has been considered against the policy tests set out in PPS 2, PPS 3, PPS 4, PPS 11, PPS 15 and PPS 16 and is considered to meet these. This proposal would deliver substantial planning

betterment relative to the existing or fall-back position. The proposal includes upgrading an existing access, realignment of the Ballymacrea Road and works to the Ballymacrea/Ballybogey Roads junction which are acceptable on road safety grounds. There is no objection on traffic or road safety matters from DfI Roads. The proposal complies with planning policy and is acceptable in terms of its layout and appearance. In accordance with para 3.8 of the SPPS, no significant harm would be caused to neighbouring amenity and there would be no demonstrable harm. Approval is recommended.

## **10 CONDITIONS**

### **10.1 Regulatory Conditions:**

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The development hereby approved shall be used for holiday accommodation only and shall not be used for permanent accommodation.

Reason: The site is located outside of any settlement limit where planning policy restricts development and this consent is hereby granted solely because of its proposed holiday use.

3. The development hereby permitted shall not be occupied until the remediation measures as agreed in the remediation strategy has been implemented and carried out in accordance with its terms. Prior to the commencement of the remediation work the Council must be given two weeks written notification, to enable NIEA to visit the site during the works on-site.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.

4. If during the development works, new contamination or risk is encountered which has not previously been identified, works should cease and the Council shall be notified immediately.

This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.

5. After completing all remediation works under Conditions 3 and 4; and prior to the occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all risks and achieving the remedial objectives.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.

6. No development shall commence until the vehicular access, including visibility splays, any forward sight distance and road realignment are provided in accordance with Drawing No 05B bearing the date stamp 21st May 2014. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

7. The access gradient to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10.0 metres outside the road boundary.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

8. No other development hereby permitted shall become operational until the existing access indicated on Drawing No 05B bearing the date stamp 21st May 2014, has been permanently closed and the verge properly reinstated to satisfaction of the Council.

Reason: In order to minimise the number of access points on to the public road in the interests of road safety and the convenience of road users.

9. Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

10. The swale trench works and the connection to an approved sewer system as set out the Flood Risk Assessment 5<sup>th</sup> July 2013, shall be completed and agreed with Council prior to the use of the facility becoming operational.

Reason: To ensure the development does not result in indirectly increasing the risk of flooding elsewhere.

11. The scheme of planting, including the woodland planting belt, hereby approved shall be carried out in accordance with drawing No. 02B dated 10<sup>th</sup> June 2016 during the first available planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape in the interests of visual amenity and protection of bats.

12. The existing natural screenings of the site, as indicated on Drawing No. 02B date stamped 10<sup>th</sup> June 2016 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

13. All construction activity and materials (including spoil) shall be confined within site boundaries and the designated area shall not be disturbed in any way without written consent from the Council, in consultation with the Northern Ireland Environment Agency.

Reason: To protect the integrity of the geological features of Craigahulliar ASSI.

14. All fencing to the east and south of the site to be constructed of badger friendly fencing.

Reason: To allow the badgers freedom of access to their feeding grounds.

15. There shall be no removal of hedgerows or trees within the bird breeding season which runs from 1st March and 31<sup>st</sup> August (inclusive).

Reason: To protect breeding birds.

16. The proposed acoustic barriers, indicated on Drawing No. 02B date stamped 10<sup>th</sup> June 2016, to the east of the site and running west adjacent to the access road, and details shown on Drawing No. 12A date stamped 31<sup>st</sup> March 2015 shall be constructed and retained in perpetuity prior to the operation of the development hereby permitted.

Reason: To safeguard the amenity of future occupiers.

**The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.**

17. No other development hereby permitted shall become operational until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 05B, bearing the date stamp 21st May 2014, and in accordance with Drawing No.06A date stamped 10<sup>th</sup> June 2016. The Department hereby attaches to the determination a requirement under

Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

18. No other development hereby permitted shall become operational until the road works indicated on Drawing No's 7,8,9 and 10 bearing the date stamp 21st May 2014, have been fully completed in accordance with the approved plans.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out at the appropriate time.

### **Informatives**

1. 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.
2. 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.
3. Full regard should be given to all relevant and current guidance and standards during investigation and monitoring works and the remediation and verification processes. Such detail should be incorporated within any reports required to be submitted for prior approval by the Department in consultation with Causeway Coast and Glens Borough Council and the Northern Ireland Environment Agency.
4. The applicant and their consultant are advised to have full regard to the Council Guide to Interested Parties, Development of Land Affected by Contamination. ( Available from Causeway Coast and Glens Borough Council ), which provides details of the information which the Council expects to be contained within reports submitted

for approval (including checklist documentation for remediation and validation stages).

5. Care should be exercised in the removal of any contaminated sources from the site, during site clearance, to ensure that the existing contamination load within soil and ground water is not increased. The applicant must ensure full compliance with waste management licensing legislative requirements. All hazardous waste removed from the site should be removed to a waste facility licensed to receive hazardous waste. The verification report should include copies of waste management documentation as required.
6. Although Causeway Coast and Glens Borough Council Environmental Health Service has assessed the information provided in the current state of knowledge, it ultimately is the responsibility of the developer, to ensure the development is safe and suitable for the purpose for which it is intended and that any unacceptable risks from contamination will be successfully addressed through remediation. He/she should recognise the importance of ensuring thorough and competent professional assistance supported by professional indemnity insurance.
7. The developer is required to enter into a licence agreement with the Department for Infrastructure, Roads for the carrying out of the road works approved, prior to the commencement/ occupation/ operation of any works to the public road network. The licence agreement shall be issued through the Development Control Officer, Network Planning Section, DfI Roads Northern Division, Co Hall Castlerock Road Coleraine BT51 3HS and the developer should allow up to three months for completion of the licence. Accordingly the developer is advised to make an early personal application for the issue of the licence. He should also initiate early discussions for the satisfactory programming of the road works with the Private Streets Engineer, Telephone no.02870359990, DfI Roads Consultancy at Co Hall Castlerock Road Coleraine BT51 3HS.
8. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

9. All construction plant and materials shall be stored within the curtilage of the site. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
10. The applicant is advised to consult with the informatives set out in Standing Advice Note No. 23 – Commercial and Industrial Developments which is available at:  
[http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice.htm](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm)
11. Attention should be paid to PPG 07- The safe operation of refuelling facilities and PPG 21- Incident response planning. In section 4.9 of the Methods of Works statement there is mention of 'bunging a public storm drain for duration of construction activities'. Water Management Unit advises that the applicant consults with the relevant authority prior to commencement of this activity.
12. Attention should be paid to the relevant PPGs, most notably PPG 05 Works or maintenance in or near water. Water Management Unit would highlight that all proposed mitigation measures should be strictly adhered to. Furthermore, all relevant statutory permissions for this development must be obtained and complied with.
13. Water Management Unit is content that the applicant has identified all the relevant Standing Advice Notes (Standing Advice Notes 4, 5, 11, 18, 22 and 23). The applicant is required to adhere to all the relevant precepts within these guidance documents to minimise the impact of this proposal on the water environment.
14. The applicant, site owners/operators and the selected contractor(s) should comply with all the relevant Pollution Prevention Guidelines (PPGs) in order to minimise the impact of the project on the environment, paying particular attention to: PPG 1, PPG 2, PPG 3, PPG 5, PPG 6, PPG 7, PPG 13, PPG 21 and PPG 22.
15. Effective mitigation measures should be in place to protect the water environment and surrounding water bodies from any discharge into them that may damage ecological status and to ensure that the Water Framework Directive (WFD) objectives for



the water body are not compromised nor the WFD objectives in other downstream water bodies in the same and other catchments.

16. **BATS** <http://www.bats.org.uk>

The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) 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;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal;  
or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605.

17. **BADGERS** <http://www.badgerland.co.uk/animals/introduction.html>

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, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure;

disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

## 18. ALL BIRDS

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1<sup>st</sup> March to 31<sup>st</sup> August, unless pre-clearance surveys show an absence of breeding birds.

19. The purpose of the Conditions 3 - 5 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and endues of the site such that it would not be determined as contaminated land under the

forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks

20. The applicant should ensure that the management of all materials onto and off this site are suitably authorised through the Waste Management Regulations (NI) 2006 and/or the Water Order (NI) 1999.
21. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to Rivers Agency, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.
22. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
23. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site: such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
24. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
25. Consent to discharge additional storm run-off to the watercourse(s) serving the site may need to be deferred pending completion of

proposed drainage infrastructural improvements necessary to provide adequate capacity for increased flows. The Rivers Agency should be consulted about proposed timing of development at the earliest possible time.

26. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
27. There will be a general presumption against the erection of buildings or other structures over the line of culverted watercourses. Any proposal for such requires the written consent/approval of the Rivers Agency. Failure to obtain such approval is an offence under the Drainage Order which may lead to prosecution or other statutory action as provided for.
28. The undesignated watercourse which lies within / bounds the development site, requires improvement works and such works will be undertaken at the developer's expense.

## Site location map

