



**Causeway  
Coast & Glens  
Borough Council**

<b>Planning Committee Report</b>	<b>24 January 2018</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

# EXECUTIVE SUMMARY

## LA01/2016/1328/F

### Full Planning

This Executive Summary is prepared for planning application LA01/2016/1328/F which is for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction including exhibition space, tourist retail unit (c.150sqm) and office space, demonstration restaurant, car/coach parking, access/junction alterations, landscaping and associated infrastructure works) on land south of 120 Ballyreagh Road, Portstewart.

Full consideration of this proposal is set out in the Planning Committee Report.

This application is Major Application and was subject to a Pre-Application Community Consultation which took place on 18<sup>th</sup> June 2016 with 43 questionnaires completed. The application was submitted with various documents, including a pre-application community consultation report and was made valid on 1<sup>st</sup> November 2016. All relevant consultees and neighbours were notified and the application was advertised in the local press. As a result of the consultation process there were a total of 75 letters of objection, 85 letters of support, one petition of support and one petition of objection. All consultees had no objection subject to conditions where necessary.

There are a number of policy documents and guidance that apply to this application. The main policy consideration is Planning Policy Statement 16: Tourism which considers the principle of a hotel.

In assessing the application there are several matters that have been considered, including those raised within the letters of objection. Other matters of consideration include:

- The principle of development

It is considered that the principle of the development at this edge of settlement location is acceptable having regard to policies TSM 3, TSM 5 and TSM 7 of Planning Policy Statement 16.

- Portrush hotel study

Although this study may be informative, and is a consideration in processing this application, it is not a planning document and has not been through any formal inquiry or examination, so should therefore be afforded limited weight

- Economic considerations

This proposal is a large scale investment which will cost around £15million to deliver and would create significant construction jobs and, when operating close to 100 full time jobs. This proposal, both locally and regionally, would go some way in meeting an objective of the Executive creating jobs and investment to stimulate the local and regional economy and promote long term growth.

- Impact on residential amenity

There will be a change on the existing properties around the site, including an impact on views, and changes to the level of noise, odour and light. Having consulted with Environmental Health in this regard, the proposal is not considered to have an unacceptable adverse impact on residential amenity.

- Design of the proposal

The design is modern with architectural consistency between the buildings which results in a level of integrity to the scheme. The hotel building is large, consisting of up to 3 floors and an overall height of 11.5 metres rising to a highest point of 13.5 metres. There are significant amounts of glass within the buildings, particularly to the northern and western elevations, which maximise the views. The car parking has been broken up by the buildings and landscaping to avoid a 'sea' of hardstanding and the other buildings have been integrated within the existing landscape. It is considered that the design is acceptable.

- Visual impact on the landscape

A landscape and visual assessment has been carried out which identifies a total of 11 viewpoints. The proposal has been assessed

both before and if construction took place. The proposal will have a visual impact on the landscape. However, the built form is considered acceptable and compatible with the surrounding area which will not detract from the landscape quality or character of the area.

- Impact on the adjoining Site of Local Nature Conservation Interest (SLNCI) and two adjoining Local Landscape Policy Area's (LLPA)

The site is not located within any SLNCI or LLPA. Therefore the relevant plan policies do not apply. Having regard to the designations, it is considered that the proposal will not have any adverse impact on these.

- Northern Area Plan Examination in Public

An objector has raised a representation to the Northern Area Plan and the commentary of the findings from the Planning Appeals Commission to this. However, this representation and commentary relate to an adjacent parcel of land and not the application site. This is therefore given little weight.

- Impact on Archaeological potential of the site and historic assets.

Historic Environment Division was consulted in this regard. It concluded that the proposal would have an overall low potential direct or indirect impact upon designated and non-designated assets within the surrounding area and therefore the proposal is considered acceptable in this regard.

- Impact on the Coast

The coastline along the Causeway Coast is extremely sensitive subject to a number of zonings and designation. This area lies within part of the developed coast outside any of the areas designated, zoned or identified as an area of amenity value. Therefore the proposal will not have an unacceptable impact on the coast.

- Traffic and parking

The application proposes to access onto a protected route and requires 318 car parking spaces. DfI Roads has been consulted as the competent authority in this regard and raise no objections. The

proposal complies with policy requirements and is acceptable in this regard.

- Drainage

A drainage assessment has been submitted and Rivers Agency consulted as the competent authority in this regard. Rivers Agency has considered this assessment and, subject to approving the final design details, raises no objection.

- NW200 Proposal

The application proposes to utilise a small area of floorspace for the use of the NW200 event. This includes an exhibition/retail space and some office accommodation. Having regard to the ancillary nature of this in relation to the overall scheme, it is considered that this element is acceptable.

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

**LA01/2016/1328/F**  
**Full Application**

**Land south of 120 Ballyreagh  
Road, Portstewart.**

**24 January 2018**

<b><u>No:</u></b>	LA01/2016/1328/F	<b><u>Ward:</u></b>	Atlantic
<b><u>App Type:</u></b>	Full Application		
<b><u>Address:</u></b>	Land south of 120 Ballyreagh Road, Portstewart.		
<b><u>Proposal:</u></b>	Full application for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction including exhibition space, tourist retail unit ( c.150 sq m ) and office space, demonstration restaurant, car/coach parking, access/junction alterations, landscaping and associated infrastructure works) on land south of 120 Ballyreagh Road, Portstewart.		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	01.11.2016
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Ferguson Planning, 61 Moyle Road, Ballycastle, BT54 6LG		
<b><u>Applicant:</u></b>	C & V Developments Ltd, Falloden House, Upper Lewinshope Farm, Yarrowford, Selkirk TD7 5JY.		
<b><u>Objections:</u></b>	<b>75</b>	<b><u>Petitions of Objection:</u></b>	<b>1</b>
<b><u>Support:</u></b>	<b>85</b>	<b><u>Petitions of Support:</u></b>	<b>1</b>

**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 Section 7 & 8 and resolves to **APPROVE** full planning permission subject to the conditions set out in Section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located east of Portstewart settlement. The land is bound by Portstewart golf course on the west which is on a slightly higher level, an agricultural field on the southern boundary and cluster of holiday homes and two dwellings to the south east (known as Ballygelagh Village). The western boundary is defined by a low level stone wall with some sporadic vegetation. The site is bound on the east by another agricultural field and the lane

accessing Ballygelagh Village. There is a small derelict bungalow enclosed by mature vegetation on the access lane (no. 100 Ballyreagh Road) to Ballygelagh Village. The land to the north of the site comprises a hardstanding area which is used at various times throughout the year, including being used as the pits for the North West 200 motorcycle event. The northern point of the site is bound by the A2 Ballyreagh Road which travels along the coast between Portstewart and Portrush. This part of the road is the start and finish lines for the NW200. The application site wraps around a single dwelling fronting the road known as 120 Ballyreagh Road.

### Description

- 2.2 The land level slopes down from the south east towards the coast to the north. It is currently an exposed site with wide stretching coastal views to the north. The northern section of site is permanently laid out to be utilised by any events as the majority of it has been hard surfaced and is served by floodlights, telegraph poles and enclosed and dissected with various metal fences. The southern section comprises a field which is notably higher in the south east corner as there is a rocky mound and further south east is Ballygelagh Village. The site hosts two overhead power lines, one which runs from north to south and another from east to west.

### Character of the Area

- 2.3 The land to the north of Ballyreagh Road is very open and hosts a popular section of the coastal walk from Portstewart to Portrush. The coastal path follows the undulating cliffs providing views across towards Castlerock and Donegal. The coastal path is served by a number of car parks and viewing points close to the site including Rinagree Coastal Park car park and Rinagree Point car park. There is a golf course to the west/north west of the site.
- 2.4 Ballyreagh Road rises to the east of the site before travelling slightly inland. On this corner there are two pairs of semi-detached single storey dwellings and with a two storey detached dwelling currently under construction. There is also a linear development of six holiday cottages known as Quarry Hill further off the roadside. Quarry Hill holiday cottages have a white render finish and white upvc sun room style roofs.



- 2.5 The cluster of dwellings and holiday homes to the south east is known as Ballygelagh Village, and is characterised by two storey white rendered dwellings and the presence of dormers and white upvc sunrooms. The two detached dwellings closest to the application site within Ballygelagh Village (nos. 22 and 108) are quite different to the x24 modern holiday cottages. No. 108 is a traditional two storey dash finish farmhouse and no. 22 is a single storey stone built bungalow with detached garage.
- 2.6 There are two large caravan parks to the east towards Portrush; Juniper Hill and Carrick Dhu located on the Ballyreagh Road. There are also dwellings, apartments, commercial buildings and tourist accommodation between the two settlements.
- 2.7 The site is located outside Portstewart Settlement Development Limit as defined by the Northern Area Plan 2016. The settlement limit follows the western boundary of the golf course.

### **3 RELEVANT HISTORY**

- 3.1 Planning permission was previously granted for this proposal on 28<sup>th</sup> June 2017 by Causeway Coast and Glens Borough Council. However, following an application to the High Court, this permission was subsequently quashed on 6<sup>th</sup> September 2017. The application is now being considered afresh following the quashing of the previous decision.

### **4 THE APPLICATION**

- 4.1 This is a full application for the development of a three storey hotel with spa complex including conference and banqueting facility, 9 holiday cottages (of two designs), NW200 visitor attraction and a demonstration restaurant.
- 4.2 The development would be accessed off the Ballyreagh Road by making improvements and relocating an existing access which serves No. 120 Ballyreagh Road. The proposal would create a new driveway for the property via the proposed access road.
- 4.3 During the processing of the application, revisions were sought to various reports. There was also a revision to the overall layout to

include an area identified as overspill car parking and service road as this is integral to the overall scheme and operation of the hotel. A hedge is proposed to enclose this.

4.4 The proposal falls within the Major category of development and as such the applicant entered into pre application community consultation including the submission of a Proposal of Application Notice (PAN). The applicant organised and facilitated a public event, with appropriate community notification and advertisement. The applicant submitted a pre-application community consultation report with the application which documents the comments raised at the public meeting.

4.5 The consultation event took place 18<sup>th</sup> June 2016 at the application site within a marquee. In addition to the event the applicant set up a Facebook page and website which enables members of the public to comment on the scheme. Feedback forms with nine questions each were provided at the event. In total 43 questionnaires were completed. In terms of positive feedback, the following statistics were gathered from the completed questionnaires:

- 81% of respondents agreed there was a need for a 4\* hotel and space, holiday cottages and conference facilities in the area.
- 74% supported the provision of leisure facilities for use by local residents as well as visitors to the hotel.
- 74% supported the provision of office and exhibition space for the NW 200.
- 74% supported the enhancement of the public realm.
- 77% considered the proposal to be provide a significant economic investment for the north coast

4.6 In terms of negative feedback, the agent summarised the more critical comments made during the consultation process as follows:

- Views will be destroyed. No details on height has been provided.
- The site is within the green belt.
- There is no site specific need. This should be located in the towns where hotels have closed.
- It will set a precedent for development of adjoining fields for holiday homes.
- It will not be viable and when it closes would be converted into flats.
- It will be too prominent for the countryside.

- The restaurant on a hill is too close to Ballygelagh Village due to the noise, headlights, smells, cooking, and people smoking outside.
- There should be no more second homes.

4.7 As a result of the public consultation exercise, the restaurant was changed into a demonstration restaurant to be operated by the hotel, so as to limit and restrict usage to help reduce impact on the nearest sensitive receptors. The demonstration restaurant is a building that contains 17 workstations each with its own kitchen facilities. This is an area where individuals can attend cookery classes or cookery demonstrations and partake in the experience.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

4.8 This proposal was subject to a Regulation 7 Pre-application determination as to need for environmental impact assessment and opinion as to content of environmental statement, under The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. This was considered under reference number LA01/2016/0893/DETEIA. On receipt of the application and, under the regulations prevailing at that time, it was considered that the development in question has been the subject of a determination as to whether the application is or is not an EIA application.

4.9 The application was considered to fall within Schedule 2, Section 12(c) of the Regulations – *The carrying out of development to provide holiday villages and hotel complexes outside urban areas and associated development*. 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 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 13.09.2016 that the proposal was not an EIA development and as such did not need to be accompanied by an Environmental Statement.

- 4.10 Having considered the Regulations and the guidance set out in DCAN 10, the development proposal would not have any likely impacts of such a significance to warrant an environmental statement.
- 4.11 The Department for Infrastructure published new EIA Regulations in May 2017, however the 2015 Regulations continue to have effect as they did immediately before 16<sup>th</sup> May 2017 where before that date the applicant has made a request for a determination under regulation 7(1)(a) (of the 2015 Regulations) to the Council. This is set out under the Transitional provisions in Section 48 (3)(a) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. The proposed development has not significantly changed since the Pre-application determination was carried out as such, the proposal is not an EIA development and as such did not need to be accompanied by an Environmental Statement

## **HABITAT REGULATIONS ASSESSMENT**

- 4.12 The application was 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 Planning Authority.
- 4.13 Having considered the nature, scale, timing, duration and location of the project Shared Environmental Services concluded that subject to the imposition of a condition requiring details of suitable mitigation, the proposal would not have an adverse effect on the site integrity of any European site. The selection features of the Special Area of Conservation (SAC) which have been identified include sandbanks, reefs, sea caves, and harbour porpoise. There is no potential impact on the sandbanks, reefs, sea caves due to the distance from the site and the mitigation details submitted to date in the construction management plan (Document 13A). However the potential impact on the harbour porpoise may be significant due to the type of construction work. However, due to the separation distance from the site and the coast, the impact is unlikely and this would be secured by way of a condition regarding the methods of work and mitigation is put in place to minimise disturbance to the selection feature (harbour porpoise). The

condition would require the submission of a final construction environmental management plan.

## 5 PUBLICITY & CONSULTATIONS

### External

5.1 There have been 75 (seventy-five) letters of objection and 85 (eighty-five) letters of support along with one petition of objection and one petition of support.

5.2 The objectors raised matters of concern in relation to the following:

#### Principle/ Economic / Need

- Any new hotel should be on pre-existing building site or within Portstewart. Other hotels have failed because of a lack of demand. There is concern about the long term viability of the hotel. A hotel beside Inn on the Coast was not delivered.
- The proposal is not only a hotel but would create conference centre, banqueting facility, office space, retail unit, exhibition space and a restaurant which all have different policy considerations. This cannot all be justified and assessed as tourism.
- Demonstration restaurant is unnecessary. Staff training and cookery classes could take place in the main hotel building and does not need a separate building.
- At the Northern Area Plan examination, the PAC considered it important to have a physical and visual break between Portrush and Portstewart. PAC rejected a proposal for tourist development on this land.
- The NW200 element and Golf Open 2019 has been exaggerated to circumvent regular planning restraints.
- There is no guarantee that the NW200 will continue to operate with rising insurance costs.
- No consideration is given to the impact on existing businesses/ accommodation providers.
- Policy TSM3 and TSM4 of PPS16 are relevant and the applicant must demonstrate exceptional circumstances. It is unjustified major development and as such should be advertised as a departure from the local plan and may trigger a

call-in.

- The holiday cottages are contrary to policy and are more akin to permanent dwellings.
- The Portrush hotel study was not site specific but inferred Portrush and recommended a low rise hotel. This site is not in Portrush and is not low rise.
- The Portrush hotel study identified a site of 4 to 5 acres of land. This proposal is in excess of this recommendation (13.3 acres). There should be more suitable sites in terms of both size and location to provide appropriate hotel stock.
- The site selection was limited due to the over ambitious scale of development. A search of sites further afield should have taken place.
- The Council failed to consider PPS21 adequately in particular Policy CTY13, CTY14 and CTY15. The Council have not fully considered the PAC's view of the green wedge which distinguishes the two settlements and acts as a visual break.
- Tagging on components such as office exhibition centre, cottages and demonstration restaurant is a ploy to circumvent regular planning restraints. These components are not ancillary hotel uses and would be provided for third party uses.
- The council failed by not applying Policy TSM4 of PPS16. Tourist amenity which is likely to attract significant numbers of visitors with commensurate level and quality of visitor accommodation should be considered under Policy TSM4. The applicant argues the development will attract surplus visitors with the NW 200 visitor attraction, exhibition centre, conference centre, spa and demonstration restaurant. The Council should be asking for the business case for the development and assessing the proposal against TSM4.
- The sequential test should be independently revisited. Murphy Associates remains of the view that there are better sites within the existing development boundaries but because the developer has not been willing to modify the proposal (to focus only on meeting the need for hotel bed spaces) they have been unable to find a suitable and available site.
- Case law Aldergate properties ltd v Mansfield DC (2016) has been quoted as more recent direction than Tesco V Dundee (2012) regarding how sequential tests should be carried out. Murphy Associates uses the former case to base an opinion that the need does not have to be provided by one single

development but can be considered in terms of cumulative provision. In this instance, the existing tourist accommodation could be increased through a number of applications. Murphy Associates is also of the opinion that it does not matter who owns a site or who could provide the unmet need on an alternative site. In the former case, available means available for the type of retail. Murphy Associates asserts this principle can also be applied to hotel provision. Murphy Associates argue that ownership cannot be a reason for a site not being suitable or available.

- BVOA and Murphy Associates draw attention to an application currently under consideration (LA01/2017/0689/F) at 39-41 Main Street and 2 Atlantic Avenue, Portrush which seeks consent for a new 103 bedroom hotel. Murphy Associates also cites a prospective development between the Ballymacrea Road and Dunluce Road for a 120 bedroom hotel. An application for the development (LA01/2017/1570/F) was submitted and validated by the Council 5.12.2017 for consideration. The description of the development is as follows: Proposed Luxury Hotel Resort incorporating conference facilities and spa, guest suites, apartments and villas, associated access, car parking, landscaping and ancillary development.
- TSM3 requires a sequential locational test for hotels, guest houses and hostels but if the proposal breaches ancillary uses to the hotel then the letter and spirit of TSM3 is broken. Therefore the sequential test should only be assessing sites which could accommodate the hotel, not all the other non-ancillary uses. As such the applicant would not need to find a 13 acre site but just one that is capable of providing a 119 bedroom hotel.

#### Residential amenity

- Detract from amenities of Ballygelagh Village in terms of views, noise nuisance, odour, light pollution.
- The road to Ballygelagh Village must be considered in terms of critical views along with the pedestrian access through to Station Road.
- This is a public right of way by reason of its use particularly during the NW200.
- The proposal would be over dominant from such vantage points and critical views would be diminished.

- The superimposed photographs removed the headland. Notwithstanding this the scale of the development is overwhelming, overpowering and alien in the countryside.
- Noise from taxis, private cars, buses and delivery vehicles will impact amenity of occupants in Ballygelagh Village during the day and night hours. In particular during large events and parties from the licensed premises and holiday homes.
- Detracts from amenities of Quarry Hill development in terms of views, odour and noise along with light pollution.
- Residents on the roadside (120) are concerned re. Noise nuisance and congestions of traffic, loss of privacy, do not want a shared access. The 1m acoustic bund to the west of the bungalow and east of the upgraded access would appear alien and fail to integrate with the natural topography. It's unclear as to how the bund would provide sufficient acoustic protection.
- It would greatly devalue the properties in Ballygelagh Village partly due to the loss of sea views. The critical views from Ballygelagh Village were barely mentioned in the previous committee report.
- 22 Ballygelagh Village will be 20m from the demonstration restaurant and due to the prevailing winds would be subject to smells from the demonstration restaurant especially when sitting outside. Also concerned that this would become a full functioning restaurant in time generating much more traffic.
- Policy TSM7 of PPS16 general criteria h does not support proposals which harm the amenity of nearby residents. The Council have misinterpreted this as 'unacceptable adverse impact on residential amenity'. The previous committee report acknowledged harm to nearby residents but did not reference TSM7.

#### Natural environment

- Negative impact on natural environment – livestock and wildlife. The ecology report was done in summer not winter when there is feeding by endangered species of curlew, lapwings and buzzards.
- Detracts from setting of Skerries and Causeway SNI, LLPA and SLNCI.
- The land is within Rockview LLPA which only permits development related to the necessary maintenance of the golf course and the operations of Rockview farm.



- The submission does not provide a visual assessment of what the development would look like in 5, 10, 15 years.
- The majority of the land is agricultural and within the countryside. It has a role of preventing coalescence of the settlement of Portrush and Portstewart.
- The presence of tarmac, power lines and fencing does not justify this scale of development in the countryside.
- There should be an Environmental Statement and LPA should have issued an EIA determination within 4 weeks.
- Ecological and environmental impacts were not sufficiently acknowledged and explored in the committee report. The proposal will disturb birdlife.

### Design

- The design and scale is not in keeping with the site or rural location in particular the AONB characteristics. It would mar the distinction of settlements and would be visually prominent on the existing landscape where there is limited vegetation and no opportunity to integrate.
- The height of the building will obscure the land behind it. The car park will add greyness.
- The proposed sedum roof fails to offer sufficient mitigation to make the scheme any more palatable.
- The extent of car parking will be alien in this exposed rural location.
- It would set a precedent and is not in keeping with recent decisions. A proposed balcony was refused in Ballygelagh village.
- The fact extensive excavation is necessary is an admission that the development fails to respect the characteristics of the site.

### Access/ Traffic

- The A2 is a protected route and a new access onto a protected route outside settlements should not be supported. The new access would affect the efficiency and safety of the protected route.
- Policy AMP3 - Access onto a protected route has not be properly applied. There has been inadequate engagement on the magnitude of such a big change to this protected route and the owner of the dwelling has not consented to the closing up of the access. How have his interests been taken into consideration?

- The area of parking which was previously annotated as overspill car park still reads as being separate to the main car park 1. There is not sufficient robust connection between the two areas given the presence of planting/screening.

#### Other

- There are heritage assets to the north east which have not been properly assessed in respect of the impact of the development on their setting.
- If this hotel fails there is a concern that it will be a blight in the landscape.
- The examples given of other hotels are on large countryside estate with associated golf courses. This hotel would be in a highly visible location on a busy thoroughfare.
- The use of a section 76 planning agreement to prevent separation of the components provides no comfort as the legislation allows for applications to modify or remove such agreements.
- The Belfast Telegraph published an article (June 17) announcing the construction of a new hotel in Portrush on the site which is currently occupied by the Londonderry Hotel. This new hotel would mitigate the need for this proposal.
- There is objection to the proposed construction management plan and concerns regarding impact on the surrounding residents.

#### Council's role

- The Council had correspondence with the developer in June 2017 but it was only published 2 October 2017.
- The Council granted approval without due diligence in examining the financial viability and sustainability of such a development.
- The High Court Order states that the Council must hold a fresh adjudication before an independent panel. This should be the Department of Infrastructure as the Planning Committee and Planning Officers cannot be independent.
- The Council has a self-interest in the application as landowner of part of the site and it would financially gain as a result of rates. The Council granted an easement over key land for £1 without which the site would be landlocked. The easement was granted to C & V developments 17.06.2017.

- The Council previously granted consent prior to having any evidence from the applicant that they were in control of all land needed for overspill parking and service access.
- The Council cannot ensure the developer has control over the area referred to as the easement area during the NW 200 race week and on occasions when other events are held here.

#### Financial information

- The further information from the agent dated 20 September 2017 with attachments from ASM Chartered Accountants, Interstate Europe Hotel and Resorts and WH Stephens provide little in the way of a sound and robust case of financial viability and their ability to sustain the development. The details on funding are insufficient.
- The financial information submitted to date may no longer be relevant as the applicant may have sold the land and the funding may no longer be available to a new owner.

5.3 The representation made in support of the applications have raised the following matters:

#### Need

- There is need for additional accommodation with a multipurpose space to host large scale events. A conference centre is needed to facilitate business meetings and conferences. It could also host receptions and launch events which currently takes place in Belfast.
- The NW200 runs large scale conferences and hospitality events throughout the year. Due to the lack of suitable accommodation, those events are currently taking place in Belfast undermining the event's local connection
- Need for the new leisure facilities for both the tourism industry and local population. Coleraine is the only swimming pool in the locality but it has limited availability in summer/at weekends.
- There is a lack of high end quality accommodation (four and five star hotels). The area needs a variety of accommodation in addition to bed & breakfast facilities. Due to the closure of other hotels, this exacerbated the need.
- At present many international visitors stay in either Belfast or Dublin.
- The current lack of high quality accommodation would adversely affect the legacy of the Open golf.

- A development of this scale and mix will ensure the area can accommodate larger groups and with facilities such as the spa/leisure complex and demonstration restaurant which would significantly increase visitor numbers in winter and summer.
- The vision to include a demonstration restaurant/cookery facility will tap into the interest for food and drink themed holiday experiences and provide a means to showcase the local food and drink produce from the Causeway region.

#### Economic benefits

- Increase customer spend in the area by supporting the growth of the business and tourism economy
- It will provide employment not only for those working at the hotel but businesses that will supply services. It will also increase trade in restaurants, pubs, shops and other visitor attractions/activities.
- It will increase the tourism offer ie. Providing spa/leisure facilities to those who are already staying in the area.
- The demonstration restaurant would be great for locals and tourists, similar to Bushmills salmon and whiskey festival and the potato week.

#### Design

- It is a huge improvement on what is currently on site with green fencing and locked gates.
- The design of the proposal is sympathetic to the site and blends in.
- It does not create an eyesore or encroach on the coastline. Its location is superb and would be an asset to the area.

#### North West 200 / The Golf Open

- It will help preserve and develop the NW200 event beyond its current popularity. The benefits for the NW200 include permanent office, race control, media centre, VIP/corporate hospitality, motor cycle museum. It would also provide a meeting point for motorcyclist's local and touring accommodation for teams, sponsors and spectators. The event needs its own dedicated visitor centre.
- Riders who stay at the hotel will not have to queue through road closures before going to get a shower after the race
- Organisers of the Golf Open consider the proposal to be of a scale and quality that will service the needs of those working and

visiting the Open and will strength the support network of the open in this area providing additional high quality accommodation which will benefit the event and tourism in the local area generally.

**Internal:**

All consultees were reconsulted on 2.10.2017.

**NIEA**– Has no objection subject to condition and informatives.

**DFI Roads** – Has no objection subject to conditions and informatives.

**Environmental Health** – Has no objection subject to conditions and informatives. Environmental Health confirmed that a sensitive receptor is still a sensitive receptor regardless of whether the receptor is a permanent resident or holiday let only.

**Historic Environment Division** – Has no objection subject to condition.

**Rivers Agency** – Has no objection subject to condition.

**NI Water** – Has no objection subject to conditions and informatives. NI Water has responded to a pre development enquiry with the applicant regarding the proposal.

## **6 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 RELEVANT POLICIES & GUIDANCE**

Northern Area Plan 2016 (NAP)

Strategic Planning Policy Statement (SPPS)

Regional Development Strategy (RDS)

Planning Strategy for Rural Northern Ireland (PSRNI)

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 3 (Clarification): AMP 3: Access to Protected Route

PPS 4: Economic Development

PPS 6: Planning Archaeology and the Built Heritage

PPS 16: Tourism

PPS15 (Revised) Planning and Flood Risk

PPS 21: Sustainable Development in the Countryside

Supplementary Planning Guidance

Parking Standards

Northern Ireland Regional Seascape Character Assessment

Northern Ireland Regional Landscape Character Assessment

Northern Ireland Landscape Character Assessment

DCAN 15: Vehicular Access Standards

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application include:

- The principle of development
- Portrush hotel study
- Economic considerations
- Impact on residential amenity including noise, light, odour
- Design of the proposal
- Visual impact on the landscape
- Impact on the adjoining Site of Local Nature Conservation Interest (SLNCI) and two adjoining Local Landscape Policy Areas (LLPA)
- Northern Area Plan Examination in Public
- Impact on Archaeological potential of the site and historic assets.
- Impact on the Coast
- Traffic and parking
- Drainage
- NW200 Proposal
- Other matters

### **Planning Policy**

8.2 The principle of development proposed must be considered having regard to the NAP, the SPPS and relevant Planning Policy Statements specified above.

8.3 The site is not within any designations according to the Northern Area Plan 2016. However the land to the south west is designated as a Local Landscape Policy Area (LLPA: PTL05 Rockview). This LLPA incorporates a Site of Local Nature

Conservation Importance (SLNCI - CNC04 - Portstewart Old Links). Land to the north is also designated as a Local Landscape Policy Area (PTL04 Golf Links and Eastern Coastal Area). Ballyreagh Road (A2) running to the north of the site is a Protected Route.

- 8.4 NAP does not have any specific policy on Tourism. However, the Strategy Plan Framework (Vol 1) of NAP 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.
- 8.5 NAP Proposals (Vol 2) advises that Portstewart along with Portrush and Coleraine function effectively as a single urban area. As such, Portstewart is part of a local cluster of towns, contributing to the synergy of a larger urban complex. Although it has many of the facilities of a modest size town, it now primarily functions as a suburb of Coleraine. Notwithstanding this, the emphasis of the Plan is to maximise development within the existing urban footprint ie the development limit of Portstewart.
- 8.6 PPS21 is the relevant policy for development in the countryside. This application is considered to be in the countryside by reason of it falling outside Portstewart development limit. In terms of tourism development, Policy CTY1 of PPS21 points to TOU Policies of PSRNI. However the preamble of PPS16 states *'the policies of this statement will supersede Tourism Policies SP10 and TOU1 to TOU4 of the Planning Strategy for Rural Northern Ireland PSRNI) and also Policy CTY1 of PPS21 as it relates to the tourism policies of PSRNI.'* Therefore, Policy CTY1 of PPS21 has been superseded in so far as it relates to tourism development.
- 8.7 Policies CTY13 and CTY14 of PPS21 contain general policies regarding the setting of settlements, the siting of development, the need to protect rural character and promotes the integration of



development which will be considered in sections 8.73 – 8.107. Some of these matters are similarly covered under TSM 7 of PPS 16 including design and general matters including amenity, landscape character and road safety.

- 8.8 Policy RG4 of the RDS promotes sustainable approaches to the provision of tourism infrastructure requiring all new infrastructure to be appropriately located and sited with regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends.
- 8.9 Core planning principles of the SPPS include improving and health and well-being, creating and enhancing shared space, supporting sustainable economic growth, supporting good design and positive place-making as well and preserving and improving the built and natural environment.
- 8.10 The main aim of the SPPS (Para 6.255) 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.
- 8.11 Where there is no suitable site within a settlement a new build hotel, guest house, or tourist hostel the SPPS (Para 6.260) advises it may be appropriate on the periphery of a settlement subject to meeting normal planning requirements.
- 8.12 Policies TSM3, TSM 5 and TSM 7 of PPS 16 also apply to this proposal.

### **Principle of development**

- 8.13 NAP refers to PPS16 as the relevant policy for tourism development. In particular page 37 of the Plan Strategy and Framework states that “PPS16: Tourism sets out the Department’s planning policy for tourism development, including the main forms of tourism accommodation and tourism amenities...Prevailing regional planning policy provides for the framework for identifying appropriate development opportunities and safeguarding tourism assets from harmful development”. The findings of the Paragraph 3.5.46 of the PAC Report (“Examination in Public into Objections to the draft Northern Area Plan 2016 Section 3 Coleraine Borough Council” dated

4.06.2014) supports the contention that PPS16 provides regional policy to assess tourism development proposals at this location. The main policy consideration to assess the principle of the development is Policy TSM3 - Hotels in the countryside of PPS16.

- 8.14 It is recognised that Policy TSM4- Major Tourism Development in the Countryside also relates to the principle of certain forms of tourism development in the countryside. However, given that TSM 3 relates specifically to a typology which includes hotel developments, and considering that the level of other amenities are commensurate to a large scale hotel, it is felt that TSM 3 is best placed to consider such a proposal. This is supported by the supporting text of TSM 4 which identifies major tourist development as tourism amenities likely to attract significant numbers of visitors of along with a commensurate level and quality of visitor accommodation. The proposal is a hotel with ancillary related uses that would not attract significant numbers in their own right. There are uses that need to be considered against the relevant policies that apply, such as the retail and office elements.
- 8.15 The justification for locating new hotels within existing settlements is to take advantage of existing services and facilities, providing ready access for visitor and employees and to minimise the impact on rural amenity and character. However PPS16 advises that it is important to ensure firm proposals for such projects are not impeded due to a lack of suitable land within settlements. Given the scale and nature of this hotel proposal, this is considered to be land intensive and further consideration of alternative sites is set out in Paragraphs 8.16-8.23.
- 8.16 Policy TSM3 sets out the following criteria for proposals to develop a hotel on land at the periphery of a settlement. The site is located 127m east of the settlement boundary of Portstewart and is separated by one of the greens belonging to Portstewart Golf course. While it does not share a boundary with the settlement of Portstewart, it is considered to be on the periphery of Portstewart and as such this policy is most relevant.
1. *there is no suitable site within the settlement or other nearby settlement;*

- 8.17 The applicant has undertaken a sequential site assessment for this proposal and assessed 16 sites within Portstewart and Portrush against a number of criteria including location, area, ownership, physical constraints and planning restrictions. The sequential site assessment is set out in Appendix 2 of the applicant's Planning Statement.
- 8.18 Prior to undertaking the sequential site assessment the applicant calculated that the development would require land to accommodate a 4\* hotel complex (5,500sq m) together with access, parking and servicing. In their market research the applicant considered a sea view to be of critical importance to the viability of the scheme in meeting visitor expectation.
- 8.19 In assessing the sequential site assessment, case law (which relate to retail development) advises that the question is whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site. Case law requires a need for applicants to be flexible and realistic in the assessment and suitability of alternatives. It also requires flexibility from the Council in its assessment of the site selection. Therefore only realistic alternative sites which would be capable of accommodating the proposed development can be considered.
- 8.20 Murphy Associates and Ballygelagh Village Owners Association made comments in relation to these court cases as set out in section 5.3. Tesco V Dundee made it clear that both the Local Planning Authority and the applicant must approach the sequential test with flexibility and realism. The applicant had looked at sites which could accommodate a smaller development and a more restricted range of retailing. The Judge ruled that the question of whether the word 'suitable' meant 'suitable' for the development proposed by the applicants, or 'suitable for meeting identified deficiencies in retail provides in the area' was not a question which could be answered by the exercise of planning judgement but each policy must be assessed reading the words used objectively in their proper context. The Judge ruled that the Authority's interpretation of the development plan policy was to be the natural reading of the policies and the applicants had approached the assessment with flexibility.

8.21 The second case (Aldergate Properties Ltd v Mansfield DC, 2016) clarified that suitable meant suitable for the development proposed and not suitable for meeting deficiencies. It required applicants to have regard to the particular circumstances of the town centre and that all sites must be thoroughly assessed regardless of preference, trading style, commercial attitudes or site preference. The Judge ruled that the Council had failed to apply the sequential test as it allowed the developer to omit a town centre sites because the retailer already had a store in the town centre. The Judge also ruled that the Council should not have been treating this one retailer different and it was improper to attach a personal condition (Aldi) to any permission. The Judge also clarified that available site means available for the type of retail being sought.

- 8.22 This interpretation of case law when applied to this case means
- Only alternative sites which have the prospect of gaining consent for the type of development could be considered.
  - Alternative sites are sites which are capable of providing the proposed development whilst also being realistic and flexible.

8.23 Appendix 2 of the applicant's Planning Statement details each of the 16 sites as listed below:

1. Dunluce Centre (Portrush)	2. West Strand (Portrush)
3. Castle Erin (Portrush)	4. Waterworld(Portrush)
5. Salmon Fisheries (Portrush)	6. Causeway Street (Portrush)
7. Former Catering College (A), Skerries Holiday Park (B) & Kelly's Complex (C)	8. Glenmanus Road
9. Ballyreagh Road (Inn on the Coast) (Between Portrush & Portstewart)	10. Portstewart Promenade (Portstewart)
11. The Diamond (Me and Mrs Jones boutique hotel) (Portstewart)	12. Prospect Road (Portstewart)
13. Strand Road (Portstewart)	14. Coleraine Road (Site A & B) (Portstewart)
15. Lissadell Avenue (Portstewart)	16. Station Road (Portstewart)

- 8.24 While there are 16 areas identified Site 7 assesses x3 separate parcels of land and Site 14 assess x2 separate parcels of land. Consequently there have been 19 alternative sites assessed. Of the sites above, only the following 8 sites provide land over 2ha which is considered reasonable to deliver a hotel of circa 100 bedrooms with conference facilities: Dunluce Centre, West Strand, Former Catering College (A), Skerries Holiday Park (B) and Kelly's Complex (C), Glenmanus Road, Prospect Road, Lissadell Avenue and Station Road. None of these sites, are readily available or suitable because they either are situated within protected zones, have an established business operated from the site, are located outside the settlement limit, have been allocated for housing, form part of a live planning application for another form of development or they are currently being developed for housing .
- 8.25 The Council recently received an application to remodel, refurbish and extend the Dunluce Centre 23.10.2017 to create additional indoor recreation areas which shows a firm commitment to improve the existing centre.
- 8.26 Objectors have referenced the former Londonderry Hotel as a suitable site within the settlement limit of Portrush. This building is currently occupied and operating as a bar/night club on a site of 0.08ha. There is a current planning application on the site (LA01/2017/0689/F) to create a hotel with 103 bedrooms over five storeys. Since the submission of the application, the building has been listed and as such is granted further protection. The applicant is currently undertaking a detailed assessment and considering the viability of the redevelopment of the site as a result of the listing. The site due to its location and size would not be capable of providing a hotel of the scale, or nature of the proposal.
- 8.27 Having regard to the applicant's assessment and considering other larger areas of land available within the settlement limits, there does not appear to be a suitable, ready and available site. Much of the larger areas of open land, such as Parker Avenue in Portrush or The Warren in Portstewart are protected under planning policy as areas of open space.

- 8.28 Objectors have also cited land at opposite Strand Avenue 90m north of 106 Dunluce Road as an alternative site. An application (LA01/2017/1570/F) was submitted and validated by the Council 5.12.2017 for consideration. The description of the development is as follows: Proposed Luxury Hotel Resort incorporating conference facilities and spa, guest suites, apartments and villas, associated access, car parking, landscaping and ancillary development. The land is also outside the settlement limit of Portrush and as such would also be subject to a sequential test for any future development. It is therefore less suitable as it is further from any settlement than the application site.
- 8.29 From the sequential site assessment and considering other larger potential areas of land, no alternative sites to accommodate the scale and nature of the proposal have been identified within the settlement or nearby settlement (Portrush or Portstewart). It is considered that the proposal meets this part of the policy.
2. *there are no suitable opportunities in the locality to provide a hotel, guest house or tourist hostel either through*
- a. *the conversion and re-use of a suitable building(s) or*
- b. *the replacement of a suitable building(s);*
- 8.30 The sequential site assessment considered sites in the locality which would involve conversion, re-use and replacement. These sites include the Londonderry Hotel, Waterworld, Me and Mrs Jones, the Salmon Fisheries, the Dunluce Centre and Inn on the Coast. The Londonderry Hotel site was discussed at section 8.26. Waterworld is considered unsuitable due to its size (0.3ha) and the constrained nature of the development surrounding it at Portrush harbour side. Me and Mrs Jones is currently operating as a boutique hotel and as such is not available for the proposed development and due to its size would not have been suitable for the proposed development. The Salmon Fisheries is considered unsuitable due to the size of the site and its position within an ASSI and LLPA. Furthermore it is currently used for another form of development and it is also outside the settlement limit of Portrush.
- 8.31 The Dunluce Centre is currently the subject of a planning application as described in section 8.25. It is not available for the

proposal. Furthermore the land to the west is protected as an existing area of open space.

- 8.32 Inn on the Coast at 48-50 Ballyreagh Road is closer to Portrush and provides a hotel and restaurant. The site is 0.5ha and is within the settlement limit. It has been subject to previous approvals for residential development. The site is on the market, but currently has sale agreed. The vendor was seeking offers over £1million and the lease to the current hotel does not expire until March 2020. Due to the size of the site and the cost of the land, this site was considered unsuitable.
- 8.33 From the assessment and local knowledge it is considered that there are no suitable opportunity sites involving the conversion and re-use or replacement of suitable buildings in the locality.
3. *the development is close to the settlement, but will not dominate it, adversely affect landscape setting, or otherwise contribute to urban sprawl.*
- 8.34 This criterion is fully considered under Paragraphs 8.75 to 8.96.
- 8.35 Where the principle of a new building of the periphery of a settlement is established by meeting the above 3 stage criterion Policy TSM3 requires the Planning Authority to apply a sequential location test with preference being attributed to sites in the following order:
- land adjacent to the existing settlement limit, subject to amenity and environmental considerations;
  - a site on the periphery of the settlement limit which currently contains buildings or where the site is already in a degraded or derelict state and there is an opportunity to improve the environment;
  - an undeveloped site close to the settlement where the development could be visually integrated into the landscape.
- 8.36 The application site is located 120m east of Portstewart settlement limit. It is separated by Portstewart Golf Club, golf course. This would constitute being located on the periphery of the settlement. The northern section of site has been hard surfaced and is served by floodlights, telegraph poles and

enclosed and dissected with various metal fences. The southern section comprises a field. The site hosts two overhead power lines, one which runs from north to south and another from east to west. The proposal would be an opportunity to improve the existing environment which is a mix of an agricultural field and a hard surfaced area. The visual impact and integration of the proposal is set out in section 8.89-8.110.

- 8.37 The supporting text of Policy TSM 3 is clear that plans for new hotels should not be impeded due to a lack of suitable land within settlements. Sites which are considered acceptable in principle need sufficient mitigation measures including landscaping and design to ameliorate any negative impacts and secure higher quality development.
- 8.38 To allow an informed consideration the supporting text of Policy TSM3 advises that any proposal should be accompanied with sufficient evidence to indicate how firm or realistic the particular proposal is and what sources of finance are available to sustain the project. This proposal is a full planning application which has necessitated a significant financial investment to date in particular the appointment of consultants to undertake various studies supporting the application. The applicant has now appointed a company to manage the proposed hotel. The company known as Interstate Europe Hotels and Resorts submitted a letter to the Planning Authority advising it that they had undertaken their own feasibility study and are convinced the business is viable and sustainable. The feasibility study was undertaken prior to the company being appointed.
- 8.39 The applicant has also appointed a company to project manage the physical delivery of the proposal. The company known as WHStephens were appointed in early 2017 by the applicant and following the grant of planning permission in July 2017 went out to tender. The brief includes delivery of the project mid-2019.
- 8.40 Chartered accounting firm ASM were also appointed by the applicant to undertake research and assess viability of the proposed development. ASM developed a business plan to support applications for bank and grant funding. ASM have provided a letter to the Planning Authority advising that the project would be funded by private equity, bank finance, mezzanine finance and grant aid (Invest NI). ASM have confirmed that the



developer has the necessary monies to bridge the gap between bank finance and grant aid to enable the scheme to progress.

- 8.41 The applicant has provided these three letters from independent professional companies which would be governed by their own professional codes of conduct. The appointment of such companies and the extent of their support and involvement in the project demonstrates how far along the applicant has gone to progress the scheme and deliver it in time for the Open in 2019.
- 8.42 There is a Hotel Demand and Need Assessment which sets out much of the facts and figures regarding the hotel. The Council accepted the need for an upmarket hotel scheme upon the publishing of the Portrush Hotel Scoping Study. There is an identified need for the proposal. The applicant has engaged a project management company to deliver the proposal, a hotel management company (who manage two luxury hotels in Dublin) to operate the proposal and an accounting firm who have qualified the financial provisions to deliver the hotel. As such there is sufficient evidence to indicate how realistic the proposal is and there is sufficient finance available to sustain the project.
- 8.43 In addition to the above the applicant has applied and was granted (17.06.2017) an easement of over a piece of land required to access the site by Causeway Coast and Glens Borough Council. This further demonstrates a firm intent to deliver the development.
- 8.44 Notwithstanding the above, the policy provides reassurance that the grant of planning permission will not in itself allow for inappropriate alternative uses if an approved scheme for some reason down not go ahead.
- 8.45 Policy TSM5 states that planning approval will be granted for self-catering units of tourist accommodation in circumstances including when one or more new units all located within the grounds of an existing or approved hotel. Although the hotel is not approved, this element forms part of the overall proposal. It is clear when TSM 5 is read in its entirety that this policy also applies to *proposed hotels* as it reads "*Where a cluster of self-*

*catering units is proposed in conjunction with a proposed or approved hotel, a condition will be attached to any planning permission granted....”*

- 8.46 Policy requires that the self-catering development is subsidiary in scale and ancillary to the primary tourism use of the site. This is the case in this proposal with 9 self-catering units proposed. The units have been designed in such a way to deter permanent residential use due to their orientation with each other (front looking onto backs) and that they are located in a central location within the overall hotel complex and cannot be discretely dissected from the rest of the scheme. They are also served by the only hotel access.
- 8.47 TSM5 provides for sustainable economic benefits because new self-catering accommodation linked with an existing tourism enterprise can create synergy by enhancing its usage, economic viability and attractiveness to tourists. In turn this will support wider tourism initiatives. Therefore, in principle, it is considered that this proposal satisfies the policy requirements. That said, policy is clear that there is a need to discourage any form of permanent residential accommodation to ensure that the accommodation benefits local communities and use of these as private dwellings does not occur. Conditions requiring the units to be used for holiday letting accommodation only and not for permanent residential accommodation and removal of permitted development rights are necessary.

### **Portrush Hotel Scoping Study**

- 8.48 As part of wider regeneration plans for Portrush and to help the Department for Communities establish the need for a hotel in Portrush, the Department for Communities commissioned a hotel scoping study in 2015. Although this study may be informative, and is a consideration in processing this application, it is not a planning document and has not been through any formal inquiry or examination, so should therefore be afforded limited weight.
- 8.49 The Executive summary of the Hotel Scoping Study was published on the Department of Communities website in December 2016 and a redacted version of the full study published in 2017.

8.50 Section 5.13 of the study identifies the key features of an

- upmarket hotel scheme appropriate to the area as the following:
- circa 100 bedrooms (with sea-views if possible as this will be important)
- on site car parking
- conference/banqueting facilities to accommodate up to 350 theatre style/ 200 for banquets
- a small number of breakout/meeting rooms (4 rooms accommodation up to 60 theatre style and which can also be used for small private functions)
- high quality restaurant and bar facilities
- health suite/space and swimming pool- these features will help extend the season
- ideally the project will operate under a recognised international brand
- on a site offering 4 to 5 acres of land (5acres = 2 ha.).

8.51 The site area of the application at 5.38 ha (approx. 13 acres) is significantly larger than the area identified by the Portrush Hotel Scoping Study. However, in this case, the subject proposal includes additional buildings to a hotel and significant car parking provision as the site is located outside the settlement development limit. The additional buildings include holiday cottages and a demonstration restaurant. Furthermore, a portion of the site would remain undeveloped land. Taken together, these elements reasonable necessitate the size of the site proposed. It is apparent that this proposal would deliver on the key features identified by the Portrush Hotel Scoping Study.

### **Economic considerations**

8.52 The SPSS has five core planning principles which are set out in para 4.1. One is to 'improve health and well-being' and another is to 'support sustainable economic growth'. The SPSS requires Planning Authorities to support provision of jobs, services and economic growth to contribute positively to health and well-being. This is a need to take a positive approach to appropriate economic development proposals and proactively support and enable growth generating activities.

- 8.53 The Executive has a key commitment and priority to promote economic recovery and balanced growth; tackling disadvantage by ensuring economic considerations are accorded appropriate weight in the taking of planning decisions; and ensuring the speedy progression of decisions through the planning process. Para 3.3 of the SPPS states that in making planning decisions there is a need to ensure economic considerations are accorded appropriate weight.
- 8.54 The SPPS goes on to state that a modern, efficient and effective planning system is essential to supporting the Executive, and wider government policy, in its efforts to promote long term economic growth in the interests of all the people in this region and therefore a positive approach to appropriate economic development proposals should be taken to enable growth generating activities. Large scale investment proposals with job creation potential should be given particular priority.
- 8.55 The applicant has listed the following economic benefits of the proposal:
- £15million to deliver
  - Close to 100 full time-time jobs
  - Construction employment
  - £1.76m per annum in salaries and wages paid to staff
  - £560,000 per annum on food purchases and £181,000 per annum on beverage purchases.
  - £719,000 per annum on other operating expenses
  - The hotel spend is anticipated to be circa £3.2m on employment, local produce, products and services
  - Overnight guests at the hotel are anticipated to spend £5.65m per annum in the local economy and generate around £8m per annum in visitor spend.
- 8.56 Tourism NI is a non-department public body of the Department of the Economy responsible for the development of tourism and the marketing of NI as a destination to domestic tourists from within NI and to visitors from the Republic of Ireland. It provides specialist advice on major tourism proposals. It advised that 'The Open' in 2019 will be the largest event NI has ever hosted as it is expected to attract 200,000 spectators over the competition days. Tourism NI expect it will further NI's reputation as a golfing destination and in particular build a positive image of the North

Coast internationally and boost efforts to grow overnight visitor numbers and spend. Tourism NI estimate the spend per golfer coming to NI is significantly below that of Scotland, Wales and the Republic of Ireland and England due possibly to tourists taking day trips from Belfast and Dublin for the day rather than staying in the area.

- 8.57 In 2012 Tourism NI commissioned an independent evaluation of the NW200 which estimated that the event benefited NI business by £2.1m.
- 8.58 The NI Hotel Federation is the representative trade body for the hotel sector in NI has made representations on the application. It recognises the need for additional high end hotel accommodation in the North Coast for the staging of The Open 2019 and beyond. It is of the opinion that the proposal would support golf tourism which 'has been identified as a best prospect for NI supported by a £50m strategy'.
- 8.59 The R&A governs the sport of golf worldwide together with the United States Golf Association (USGA). The R&A organises 'The Open' which is golf's most international major championship and will be taking place in Portrush 14 - 21 July 2019. There is an aspiration by the R&A that 'The Open' will leave a legacy and it is of the opinion that the proposal will help serve that legacy.
- 8.60 The above comments made by Tourism NI, Northern Ireland Hotel Federation, and the R&A must be given appropriate weight when assessing the potential benefits of the proposal to not only the north coast but to the entire Region and the wider economy.
- 8.61 When assessing the positive and negative economic implications of planning applications there is a need to ensure the approach followed is proportionate to the scale, complexity and impact of the proposed development.
- 8.62 This proposal is a large scale investment which would create significant construction jobs and, when operating close to 100 full time jobs. There is a recognised need for high end accommodation in this location not only for The Open Championship but there has been an undersupply of provision for some years. Jobs, the economy and tourism are all matters discussed locally and regionally and this proposal would go some

way in meeting an objective of the Executive creating jobs and investment to stimulate the local and regional economy and promote long term growth.

### **Impact on residential amenity**

- 8.63 The SPPS states the planning system operates in the public interest of local communities and the region as a whole, and encompasses the present as well as future needs of society. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Policy TSM7 (h) of PPS16 inter alia seeks to protect the amenity of nearby residents.
- 8.64 The residents closest to the development are 120 Ballyreagh Rd which fronts the A2 and is located at the proposed point of access, 100 Ballyreagh Rd which is currently unoccupied on the approach lane to Ballygelagh Village. The other two closest dwellings are 108 Ballyreagh Road and 22 Ballygelagh Village both located in Ballygelagh Village on the south east boundary of the application site. Letters of objection have been received from 120 Ballyreagh Road, 108 Ballyreagh Road and 22 Ballygelagh Village on grounds of noise, odour and light spillage.
- 8.65 Whilst the proposal will be in proximity to the two dwellings on the edge of Ballygelagh Village (no. 108 and 22), due to the distance from the proposed development, the proposed design, proposed landscaping and the present topography of the land, the proposal is unlikely to have an unacceptable over bearing visual impact. However, it is necessary to consider the expected impact from noise, odour and light spillage on all properties concerned as well as considering the visual impact from all critical views.

### **Noise**

- 8.66 The applicant appointed Neo Environmental to undertake a noise impact assessment (Doc 07 Rev 01). This involved a desk based assessment to identify noise sensitive receptors within close

proximity to the proposed development. Neo Environmental first undertook a survey to establish baseline noise conditions at two locations within close proximity to noise sensitive receptors. The first location of the noise monitoring equipment (A) was 25m south of 120 Ballyreagh Rd and the second (B) was located 20m south of 22 Ballygelagh Village.

- 8.67 The noise assessment acknowledged numerous noise sources from the development which were modelled. The three main areas of noise sources in the model were the hotel and service area, the demonstration restaurant and the holiday cottages. A simulation of noise which would be generated by the proposed development was provided using Sound Plan modelling software to predict noise levels. The assessment concluded that for both day time and night time the impact of the proposal would be deemed as either low or negligible at the noise sensitive receptors [Point 8.8 Summary of Document 07 Rev01]. The assessment made recommendations regarding the materials which should be used to minimise sound from the development, the use of acoustic grade fencing around the service area, a 1m high earth berm as screen planting to provide screening east of the access, the introduction of acoustic grade doors at all patron entrances and exits, the use of acoustic absorber panels on the roof of the conference area and the careful positioning of speakers away from openable doors or windows.
- 8.68 Environmental Health has been consulted as the competent authority on such matters and has raised no objection to the proposed development subject to conditions.
- 8.69 The submitted construction management plan considers the adverse impacts associated with site preparation/enabling and construction activities, due to noise, vibration, dust and light. The timescale indicated for the proposed works is estimated over an extended period of time (18 month duration), it is critical that adverse impacts associated with any such works are appropriately minimised to sensitive receptors.
- 8.70 Environmental Health considered the impact of noise and dust during the construction period and have recommended conditions to limit noise levels by applying best practice and mitigation measure in accordance with BS 5228, Parts 1 and 2, 2009, "Code

of Practice for Noise and Vibration Control on Construction and Open Sites" and restricting hours of construction to 07:00 - 19:00 hours Monday – Friday, 07:00 - 13:00 hours Saturdays with no working permitted on Sundays. A condition to require dust mitigation measures is also proposed to safeguard amenity.

- 8.71 Having regard to the consultation response from Environmental Health, it is considered that the proposal will not harm the amenities of nearby residents. Separate legislation outside the remit of planning exists to investigate nuisance and protect amenity of residents.

#### Odour

- 8.72 The applicant appointed Neo Environmental to undertake an odour risk assessment to characterise the nature of the catering facilities and significant odour generating sources proposed as part of the development and to determine the level of odour control and abatement required to negate the risk of odour impacting on sensitive receptors. Odour would be expected to emanate from within the main hotel and the demonstration restaurant. The sensitive receptors identified included 50 Millbank Ave, 100 Ballyreagh Rd, 108 Ballyreagh Rd, 120 Ballyreagh Rd, 24 Ballygelagh Village, and the holiday cottages with the proposed development. 22 Ballygelagh Village is elevated 70m south of the Demonstration Restaurant and is likely to be most directly impacted by the cooking odours from this source and similarly 108 Ballygelagh Road and the proposed holiday cottages.
- 8.73 The odour risk assessment considered that the proposed kitchens and restaurant within the main hotel would require a low to medium odour control abatement system to prevent odour release and a similar low to medium level odour control abatement system at the demonstration restaurant to prevent odour release from impacting nearby residential properties.
- 8.74 On receipt of the odour risk assessment (Doc 14) and the addendum to the odour risk assessment (received 21.02.2017) Environmental Health pointed out that whilst the assessments concluded that the impacts from odour were low to medium, the applicant had committed themselves to employing a high level of



control in all kitchens. On this basis, Environmental Health advised that all odour abatement proposed in relation to cooking odours should meet the requirement of DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems and achieve a 'High level of odour control'. As there is a need to ensure sufficient mitigation measures are taken to protect the sensitive receptors from odour, a planning condition will be required to secure this.

## Light

- 8.75 The applicant appointed Neo Environmental to undertake a light assessment (Document 18) to describe the proposed lighting and visual impact on the landscape along with taking into account the closest residential properties. The report considered the existing site to fall within the E2 classification as it is a rural area with low district brightness. Objectors have challenged this classification, stating that it should be E1 which describes a natural area as intrinsically dark. However, it would appear E2 is the more appropriate classification as this site currently has street lights adjoining it, it is located on the edge of a town with residential properties in proximity. After identifying the base line condition of the site as rural (E2 zone), the report uses the Institute of Lighting Engineers guidance which sets out acceptable levels of illumination for each environment and various times of the day known as curfew. These are referred to as lux levels and in E2 the maximum light intrusion (into windows) is 5lux pre curfew and 1lux post curfew. Curfew is 2300 hours.
- 8.76 The development would include proposed lighting to illuminate buildings, walls, planting along with car parking lighting, roadway lighting, and access paths. The proposed external lighting plan (Drawing no. 55) annotates clearly that there will be no lighting columns over 2.4m in height across the development. The lights at the entrance are ground lights. For the scale of the development, the level of lighting is understated. The assessment concludes that residents will not have any obtrusive lighting or glare from the proposed lighting scheme and neither is the lighting considered to have an impact on wildlife or the environment.
- 8.77 The impact of the lighting on properties in proximity to the proposal is not considered to be at a significant level to result in a

nuisance. Environmental Health, as the competent authority, has raised no objection on this matter. However, a condition will be necessary to ensuring the proposed lighting scheme is installed, operated and maintained to achieve the lighting standards stipulated within the light assessment (Document 18).

- 8.78 It is evident that that the outlook from some properties in Ballygelagh Village, Quarry Hill, 120 Ballyreagh Road and 100 Ballyreagh Road would change. There would be noise, odour and light changes within the site and area. That said, having considered the information submitted in this regard, and consulting with Environmental Health who is the competent authority, it is not considered to harm the amenities of nearby residents. The test in policy terms relates to amenity worth protecting in the public interest and not whether individual owners and occupiers of neighbouring properties would experience financial or other loss from a particular development. In this respect the proposed development has been designed to protect the living amenities of residents in close proximity. There is never any guarantee that land will not be developed and, as such, views are not generally protected in planning policy. Any impact on amenity must be weighed against other matters, including any benefits of the development in reaching a balanced decision.

## **Design**

- 8.79 Policy TSM 7 of PPS 16 sets out a list of design criteria which tourism proposals are expected to comply with. These are listed (a) to (f) and some aspects are considered within the wider report, such as lighting considerations. The policy places emphasis on good design and seeks the inclusion of public art which is included as part of this application.

## **Layout**

- 8.80 The hotel building is 3 storeys, providing 119 bedrooms, exhibition space, conference centre and spa complex is to be positioned on the lower part of the site fronting the road. The hotel layout is to be T-shaped with the top on the T aligned to the eastern boundary of the site. The longest part (base of the T) would sit across the site providing bedrooms on all three floors.
- 8.81 The northern arm provides the NW200 visitor centre, exhibition

space, NW200 office space, lounge bar and conference reception on the ground floor. It is to be served by its own access. The first floor of the northern arm would provide a conference room with terrace, break out space, kitchen and restaurant. The restaurant and break out /restaurant/overspill space has access to a first floor terrace. The second floor of the northern arm would provide spa facilities with a small terrace. The second floor footprint is smaller than the first floor as much of it would create a void space over the conference room.

- 8.82 The southern arm provides leisure facilities including a 20m swimming pool, spa facilities, changing rooms, gym class space, relaxation area, hot tub, and juice bar on the ground floor. It is served with its own entrance. The first floor of the southern arm provides meeting rooms and break out space for the conference centre on the eastern side and bedrooms on the western side, all served with individual outside terrace space. The second floor of the southern arm would provide bedroom accommodation.
- 8.83 The public areas of the hotel are sizeable and will provide suitable access for all without being overly restrictive. All floors are accessible by lifts.
- 8.84 The hotel service area is located on the eastern boundary screened with a 1.8m timber screen and landscaping to screen this from public view. A service route runs along the northern boundary of the car park to access the service yard.

#### Appearance

- 8.85 The hotel will have a dual frontage. The principal entrance to the hotel is on the northern elevation. However, a secondary entrance is located on the southern elevation accessing the leisure facilities. Car parking is located both to the north and south of the hotel building with landscaping within these areas to help break up the hard surfacing.

#### Materials

- 8.86 The roof of the proposed hotel, holiday cottages and demonstration restaurant include the use of sedum roofing. Other materials used on the hotel, cottages and demonstration restaurant, include dark grey natural stone work, anodised aluminium windows and doors, anodise/marine grade powder

coated aluminium trims and flashing-grey, anodised aluminium/hardwood louvred solar shading, stainless steel/frameless glass balustrading and handrails.

#### Cottages

- 8.87 The proposal also includes the creation of nine holiday cottages to the south of the hotel which are positioned in a linear fashion and accessed off a single approach. Six cottages (Type A) is to the north of the approach and three larger cottages (Type B) to the south of the access road. Type A cottage is split level with two bedrooms on the lower ground floor and one bedroom with living space on the upper level. Type B cottage is single storey with four bedrooms. All cottages would be served with two parking spaces each and an outside amenity space.

#### Demonstration Restaurant

- 8.88 The demonstration restaurant is a single storey building and is set within the hill side to the south of the site. It provides a main area to do demonstrations with food, a smaller section for the dining experience along with a terrace to the front and western side. The demonstration restaurant is directly linked to the hotel operation, served by three parking spaces as it is anticipated that most users will be guests of the hotel. However, any other visitors are expected to use the main parking areas. A condition is necessary to ensure the restaurant operates as a demonstration restaurant and functions as part of the overall hotel operation.
- 8.89 The design is modern with architectural consistency between the buildings which results in a level of integrity to the scheme. The hotel building is large, consisting of up to 3 floors and an overall height of 11.5 metres rising to a highest point of 13.5 metres. There are significant amounts of glass within the buildings, particularly to the northern and western elevations, which maximise the views. These windows do not result in any unacceptable overlooking or loss of privacy of existing properties. The fenestration and mix of materials breaks up the bulk and mass. The use of a sedum roof softens the appearance. The positioning within the existing hillside is to be welcomed, as this and the built form along the ridge line provide a back drop, and it does not break the skyline.

- 8.90 Parking is located throughout the scheme, with main car parks to the front and rear of the hotel. This ensures there is not a large 'sea' of car parking, and there is a detailed scheme of landscaping to break it up further. The landscaping and boundary treatment are considered satisfactory for a coastal location. The provision of public art throughout the proposal creates interest throughout the site. The use of low level lighting columns minimises their intrusiveness.
- 8.91 Having regard to the list of design criteria within TSM 7 it is considered that this proposal complies with this policy requirement.

### **Visual impact on the landscape**

- 8.92 The following section sets out how the development has been assessed against CTY13, CTY14 of PPS21 and TSM7 of PPS16, in particular criterion (g) which requires tourism proposals 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.
- 8.93 The land to the north of the Ballyreagh Road (A2) is within The Skerries and Dunluce Coast Seascape Character Area which was identified in the NI Regional Seascape Character Assessment. This is outside the development site but a viewpoint of the development is located on the public coastal footpath within the Skerries and Dunluce Coast Seascape Character Area. This Assessment recognises that coastal communities are heavily dependent on the income that visitors bring to the area as a consequence of their wish to spend time at the sea. It also realises that the provision of well-designed and sensitively located visitor infrastructure in scenic coastal areas is critical to providing a positive visitor experience.
- 8.94 The landscape and visual impact appraisal undertaken by Neo environmental considers the development would have a low/negligible magnitude of change upon the setting of the Skerries and Dunluce Coast SCA resulting in an indirect minor adverse effect. It also considers the proposal to have minor beneficial effect through the improvement brought about to the urban/rural edge of town of Portstewart.

## NI Regional Character Landscape Assessment

- 8.95 This proposal is located within Regional Character Landscape Area 16: North Coast and Rathlin. NIRLCA has been developed to meet commitments set out in Northern Ireland Landscape Charter. It includes a number of coastal processes that require protection, and protected areas. The popularity of these areas is likely to bring continued pressure for infrastructure upgrades, impacting on the perceived wildness of the coast. It says that “Recreational development, including car parking, caravan parks, hotels and golf courses, can form relatively prominent features along this coast.” While located on a coastal location, it will have no impact on its “perceived wilderness” given the level of existing built development surrounding the site.
- 8.96 The proposed site is located within an area of coastline that is not subject to any designation, such as AONB, unlike much of this coastline. Within the heading of “Built Development” of the NIRLCA, it recognises pressure from prominent farms and residential development, including second homes and holiday particularly those looking to reflect the traditional ‘clachan’ type. Although there is no commentary on hotels, this proposal and the holiday cottages present a modern contemporary feel and therefore does not seek to add to the existing clachan style of Ballygelagh Village. The proposal is located in an area that is less environmentally and visually sensitive than much of the coastline, and is therefore less likely to have any significant visual impact on any designations.

## Northern Ireland Landscape Character Assessment

- 8.97 The site lies within Coleraine Farmland (LCA 54). The Coleraine Farmland landscape character area extends along the north coast from Castlerock to Portrush and southwards along the River Bann valley as far as Milltown. Much of the LCA focuses on the extensive and important sand dune systems when considering impacts, including the designated ASSI’s and SAC. That said, the LCA states that the Key Characteristics are:
- Dramatic rocky coastline with indented broken cliffs of basalt to north of Coleraine.
  - Rugged sand dune ridges create a distinctive wild landscape at the mouth of the Bann.

- Linear ridges and valleys, with rocky outcrops and gorse on elevated land; broader, open lowlands to east of Coleraine.
- The River Bann flows in a narrow, wooded valley to the south of Coleraine.
- Long coastal views to the Causeway Coast and to the Bann Estuary.
- Long strands.

8.98 The LCA goes on to state that the clifftops between Portstewart and Portrush are dominated by golf courses, which are well-established and integrated within this windswept setting, but exposed caravan parks and recent housing developments are often intrusive, particularly where they are sited on local skylines. Unlike Ballygelagh Village, this proposal is not sited on a skyline site.

8.99 The principles for new development within the LCA 54 which apply are considered below:

*Small-scale landscape elements, such as an area of undulating landform, a network of field stone walls and a group of traditional buildings beside a church are important in this relatively large scale landscape and should be carefully conserved, together with their wider landscape setting.*

- The application site is not within such a large scale landscape described due to its current condition and the surrounding built form. The proposal seeks to respect the land form in that it has been designed to be absorbed into the natural topography of the site.

*Woodland planting will create stronger landscape structure and identity in areas where housing is anticipated, particularly in relatively elevated areas, where planting will provide a backdrop to new development.*

- Woodland planting is not considered to be suitable landscaping for a coastal location. It is not on an elevated site, and utilises the rising land to the south of the site to provide the proposal with a backdrop.

*The use of local grey basalt for new buildings would reflect tradition and provide a sense of unity.*

- There is a mix of materials used within this immediate area. As such it is not considered that a building of local grey basalt is determining.
- 8.100 While the LCA identifies the ‘Shore Platforms’ between Portrush and Portstewart, the proposed development is not likely to have an unacceptable impact on the Coastline due to its nature and location.
- 8.101 The LCA also identifies that Ringagree, the igneous bedrock has a wide variety of rock pools that are rich in flora and fauna. The upper shore has a mix of fucoids and ephemeral algae, whilst the mid shore region is characterised by mussels. Given the distance the proposed development is from Ringagree and the intervening road and other general development, there will be no detrimental impact on this area.
- 8.102 The adjoining LCA is the Causeway Coast and Rathlin Island LCA (LCA57). This LCA states that: *“The impact of tourists could be minimised through the sensitive design and location of visitor facilities such as signage, car parks, toilets and visitor centres. The location of hotels and caravan sites, as well as new housing, 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.”* By locating the proposed development at the Ballyreagh Road site, it could be argued to reduce the pressure of this type of development away from the more sensitive, scenic and heavily designated and protected part of the Causeway Coast, and away from cliff tops.

#### Landscape and Visual Impact Appraisal

- 8.103 The landscape and visual impact appraisal undertaken by Neo environmental assessment identifies landscape receptors which have potential of being affected by the proposal. It identified a total of 11 viewpoints which are representative of several receptor types from publicly available views. None of the selected viewpoints include private dwellings. It then considered the



changes which would be experienced at each view point should the proposal be constructed.

- 8.104 Photomontages were produced for four of the viewpoints to help illustrate what the proposal would look like within the existing views. These four viewpoints are considered the critical viewpoints. It includes a viewpoint from the edge of Portstewart (viewpoint 3) which would be experienced by road users and those on the coastal path, a viewpoint near Rinnagree Point car park (viewpoint 6) on the corner of the A2, which would be widely experienced by road users and those on the coastal path, a viewpoint from the edge of Ballygelagh Village (viewpoint 7) experienced mainly by those residing in the Village and also a viewpoint directly north of the site at the entrance to Rinnagree Coastal Park car park which is experienced road users and those on the coastal path.

Approach from the west leaving Portstewart

- 8.105 The hotel would be completely visible from the edge of Portstewart. However, views of the holiday cottages and demonstration restaurant will be partially screened as a result of the existing rise in levels on the golf course. The existing post and wire fence along the western boundary would be renewed like for like and provide a measure of screening as it would be positioned nearly 3m higher than the access road and over 4m higher than the finished ground level surrounding the entrance into the leisure complex. The use of sedum roofing will in some way provide a level of integration towards the rear of the site but there is no dispute the hotel building would sit above the skyline when viewed leaving Portstewart because of the perspective. However, it is not considered to dominate the view as it is set back off the road and seeks to utilise the existing land levels.

Approach from the east at Rinnagree Point car park (viewpoint 6)

- 8.106 This is an elevated viewpoint which looks down towards Portstewart and currently enjoys views of the fields and golf course. The immediate view is dominated by the existing NW 200 site, access lane to Ballygelagh Village and entrance to Quarry Hill development. The proposed hotel building would introduce a prominent building at this view point. Some of the holiday cottages and distant views of the demonstration restaurant would

be available. The proposal includes the introduction of a timber screen 1.8m in height along the first part of the eastern boundary along with screen planting to the service area and further planting to the south of the service area. Due to its position set back off the roadside, some views of the hill side and golf course would be retained. With the positioning of the proposal in the existing hillside, introduction of landscaping to provide screening and the subtlety of proposed lighting, the proposal is not considered to appear incongruous on this edge of settlement site from this viewpoint. Much of this immediate and surrounding landscape is already developed, and often on more prominent land, and when you approach from the east (Portrush) there are two road side caravan parks which are less visually appealing.

Views from the south on the edge of Ballygelagh Village  
(viewpoint 7)

- 8.107 The current view from this location captures the sea and long distant views of Donegal, however the immediate view is the area of hardstanding used at the NW200 which includes lighting columns, electricity poles fencing and hard surfacing. The proposal would change this outlook as the viewpoint would then be dominated by the rear view of the leisure complex, the conference centre and the rear view of the hotel block. The outlook would also include the roof of the demonstration restaurant which would be partially screened by the earth mound, the upper holiday cottages and the car parking area to the rear. There is only one access route which runs along the western boundary and serves the western side of the demonstration restaurant and serves both linear groups of holiday cottages. This layout reduces the area of hard surfacing and parking when viewed from Ballygelagh Village. The photomontage produced shows sea views to the west of the hotel being retained but it would result in the loss of sea views directly to the north. The proposed landscaping and low level of lighting along with the proposed pathways and car parking would break up the view. The landscape and visual impact appraisal considers the proposal would have a major/moderate adverse visual effects from this viewpoint. The dwellings and holiday homes within Ballygelagh would retain an elevated position with sea views, however it is from this viewpoint that impact on sea views will be most significant. While considering this matter, the planning system must operate in the interests of the public and therefore a

balanced decision must be reached in terms of what is given determining weight.

- 8.108 There is a path running from the south of Ballygelagh Village and through onto Ballyreagh Rd. An objection states that this is a Right of Way. However, this does not appear to be an asserted right of way. That said, the impact from this land has been considered and it is considered that as this is not heavily used by pedestrians and walkers, that the overall impact is unlikely to be significant.
- 8.109 The sections through the site provided by the applicant depict (drawing 08, 54 and 37) the highest point of the hotel roof would be 33.25m AOD, the highest point of the demonstration restaurant roof would be 34.2m AOD. These roofs would be against the backdrop of the hillside which at its highest point is 36.15m AOD and the roof ridge of the highest point in Ballgelagh Village is 41.8m AOD. As such, the proposed development would sit within the site levels and is contained within the existing landform and development.
- 8.110 The proposal would be on the edge of Portstewart settlement and is not a remote rural area with a greenfield site. There are significant areas of hardstanding used by the NW200 and other events throughout the year, the proximity to Portstewart and the golf course to the west/north west, and the existing built form to the south (Ballygelagh Village) and north east (Quarry Hill).

Views form the north at Rinnagree Point Coast Park car park (viewpoint 9)

- 8.111 The view is directly north of the application site. The current view includes the area of hardstanding used by the NW200 and other events and the houses in Ballygeleagh Village. The views of the proposal from this location would be similar to viewpoint 6 as it would be dominated by the hotel/ visitor centre and create a prominent building on the edge of Portstewart. The hotel would obstruct any views of the holiday cottages or demonstration restaurant to the rear of the site. While there would be prominent views from this land, those using the car park or enjoying the coastal path would not be adversely affected by the proposal as it is obvious the main enjoyment and views would be the panoramic sea views stretching from Donegal in the west over to the

Portrush Peninsula to the east rather than those looking south. The impact on views is also reduced as the buildings are contained within the existing landscape and built form.

- 8.112 Criterion C of Policy TSM3 (PPS16) relates to new build hotels on the periphery of a settlement. It requires the development to be close to the settlement, but not dominate it, adversely affect the landscape setting, or otherwise contribute to urban sprawl. This proposal would be a prominent building on the edge of Portstewart. However, given the size of Portstewart and the proposed position of the development set back off the road side, the existing topography with the proposal contained within the landform and built development, the proposal is not considered to dominate it or adversely affect its landscape setting. With regards urban sprawl, the land between Portrush and Portstewart, particularly on the southern side of the Ballyreagh Road, has been developed in a piecemeal fashion over time with caravan parks, singles dwellings and holiday let development which has marred this landscape between the 2 settlements. Given there is built form to the rear of this site, linking Portstewart to the development on the east, and the significant level of hardstanding, it is difficult to envisage how this site would link Portstewart with Portrush. As such the proposal is considered acceptable in terms of Policy CTY15 of PPS21 as it would not mar the distinction between Portrush and Portstewart or result in urban sprawl.
- 8.113 The built form is considered acceptable and compatible with the surrounding area which will not detract from the landscape quality or character of the area. The proposal will not restrict any access to the coast or tourism asset.
- 8.114 Having regard to all the views surrounding the site, and in particular the critical views, the proposal will have a visual impact on the landscape. However, it is considered that, on balance, these impacts are not so significant and unacceptable in policy terms to carry determining weight in this case and warrant withholding of planning permission. Regard has been had to policy TSM7 of PPS16 and Policies CTY13, CTY14 and CTY15 of PPS21. The above policies within PPS21 were given due consideration because the site is within the countryside. However taking into account the close proximity to Portstewart and existing built form close to the site, it does not possess the same rural

character of a typical countryside location. The proposal has been designed to take advantage of the sloping nature of the site and has sought to integrate with the landscape. It is not considered to erode rural character or reduce the landscape quality given the present character of the site. As such it is considered to comply with policies CTY13, CTY14 and CTY15 of PPS21 and criterion (g) of TSM7 of PPS16.

### **Impact on SLNCI and LLPAs**

- 8.115 The land to the south west is designated as a Local Landscape Policy Area (LLPA: PTL05 Rockview). This LLPA incorporates a Site of Local Nature Conservation Importance (CNC04 - Portstewart Old Links). The land to the north is also designated as a Local Landscape Policy Area (PTL04 Golf Links and Eastern Coastal Area). The SLNCI is described as unmanaged areas retaining typical dune grassland communities with records for Scots Lovage. Local Landscape Policy Areas are designated due to their important amenity value, landscape quality and significance.
- 8.116 The development is not within the SLNCI nor has this land been considered to be included within it. Due to its location, it is unlikely to have any significant adverse impacts on Portstewart Old Links Site of Local Nature conservation Importance and as such accords with Policy NH4 of PPS2: Natural Heritage.
- 8.117 The site is not located within either of the two Local Landscape Policy Areas (Golf Links and Eastern Coastal Area and Rockview). Therefore, the Local Landscape Policy Area policies set out in the Northern Area Plan do not apply to this proposal. Notwithstanding the above, the proposed development would add to the already visible built form when viewed from nearby LLPA's having a minor adverse indirect effect.

### **Northern Area Plan Examination in Public**

- 8.118 In the Examination in Public into the Northern Area Plan, the Planning Appeals Commission considered an objection (5600) from Dale Singleton Planning Partnership on behalf of Cherry Tree Holdings Ltd. This representation sought the allocation of land which at that time was Greenbelt, for tourist and tourist

related development. It is noteworthy that this representation was for the field adjacent to the application site and lands to the south and east of the access to Ballygelagh Village. Other than an access across part of the red line site, this land relates to different parcels of land outside of the application site.

8.119 Notwithstanding that the Examination findings relates to a different site, the objectors have raised this as a matter of concern and that it should be given significant weight. The Commission findings considered the land an “*..important physical and visual break between Portrush and Portstewart which should be retained free from any unnecessary development. The objector did not provide any persuasive over riding case of need to support tourism development on this land.*” Therefore, within the evidential context of the Examination in Public, the PAC was not satisfied by any overriding need to support tourism. However, the planning context has now changed. This finding does not relate to the land on which the application is proposed, the land is no longer Greenbelt, the planning authority has changed and there is now Regional policy on tourism (PPS 16) as set out in the PAC recommendation. Any decision must have regard to PPS16. Having regard to local and regional policy, it is considered that these carry greater weight in the assessment of this application, to the findings of the Examination in Public into the Northern Area Plan relating to an adjoining site.

### **Impact on Archaeological Potential**

8.120 At pre-application stage the Historic Monument Unit of the Historic Environment Division (HED) advised that given the scale of the proposal, its proximity to the coastline, and the known archaeological remains in the vicinity, that there is a high potential for previously unknown below ground archaeological remains.

8.121 In accordance with advice from HED the application was accompanied by a Cultural Heritage Impact Assessment. It considered all potential direct and indirect impacts upon designated and non-designated heritage assets within a 5km radius study zone. It concluded that the proposal would have an overall low potential direct or indirect impact upon designated and non-designated assets within the surrounding area.

8.122 HED was consulted with the Cultural Heritage Impact Assessment as the competent authority on archaeological matters and it raises no objection to the proposal. A condition is necessary to secure the implementation of a programme of archaeological works. As such, the proposal satisfies the policy requirements of Policy BH4 of PPS6.

### **Impact on the Coast**

8.123 While this proposal is not located directly on the coast, and there is intervening land and the A2 between the application site and the coastline, it is within proximity to it and is given due consideration. While the SPPS acknowledges the importance of the Causeway Coast, it goes on to say that much of the entire coast is designated within Areas of Outstanding Natural Beauty, Areas of Special Scientific Interest, or as Marine Conservation Zones. It is noteworthy that this site lies outside any of these formal designations or zones. The regional strategic objectives for coastal development set out in the SPPS are to conserve the natural character and landscape of the undeveloped coast and to protect it from excessive, inappropriate or obtrusive development; and to facilitate appropriate development in coastal settlements and other parts of the developed coastline that contributes to a sustainable economy and which is sensitive to its coastal location. The SPPS also recognises that new development must normally be directed into coastal settlements and other parts of the developed coast. Furthermore the SPPS explains that within the developed coast, areas of amenity value (such as parks, outdoor sports / play areas and coastal walkways) and areas or features designated for their importance to the archaeological, built or natural heritage, should be protected from inappropriate development. This area lies within part of the developed coast outwith any of the areas identified as an area of amenity value. The proposal satisfies this section of policy. It also complies with the relevant criterion in TSM7 of PPS 16.

### **Traffic and Parking**

8.124 PPS3: Access, Movement and Parking advises that some large scale development projects likely to generate significant volumes of traffic may require a transport assessment. This application has been accompanied with a Transport Assessment (Document

5) to consider the proposal in terms of its impact on existing transport movement and infrastructure. It follows the guidance set out in Policy AMP6 of PPS3.

- 8.125 This site is located south of the Ballyreagh Road (A2) which is a protected route. In October 2006 the then DOE published Planning Policy Statement 3 (PPS 3) Access, Movement and Parking Clarification of Policy AMP 3: Access to Protected Routes. On publication of PPS 21 in 2010, Annex 1 of PPS 21 updated Policy AMP 3 of PPS 3 as the majority of greenbelts and CPA's were removed on publication of this document (PPS21). This application falls to be considered as "Other categories of Development". The policy allows development access onto protected route in circumstances when this cannot be achieved onto an adjacent minor road and where it is an acceptable form of development in the countryside. On the basis that the principle of development is acceptable, and there is no nearby minor road offering access to the site, the proposal is required to use an existing access. In this instance there is no viable option of access onto the site from a minor road, and the proposal utilises an existing relocated access and is considered acceptable. DFI Roads has been consulted on this matter and raised no objection in this regard. In all cases, where access to a Protected Route is acceptable in principle it will also be required to be safe in accordance with Policy AMP 2.
- 8.126 The Transport Assessment estimated the likely traffic generation (based on the average number of daily users from the economic assessment) with a 20% reduction for car sharing use of other modes of transport. It estimated that on a daily basis, the average no. of vehicles to the site and from the site would be 218. The assessment attributes 80 of these vehicle movements by staff, 128 by visitors/customers and 10 for goods deliveries. It also identified that the number of movements per day would exceed 500 at certain points in the year and it is for this increased use that necessitated a right hand turn lane off the protected route in accordance with DCAN 15: Vehicular Access Standards.
- 8.127 DFI Roads was consulted on the proposed development as the competent authority on road and traffic matters and it raises no objection to the Transport Assessment or the proposed access arrangements.



### Car parking

- 8.128 The Transport Assessment anticipated the need for 318 car parking spaces, 3 service vehicle spaces and 49 cycle spaces. These were provided on the master plan with an additional area to the north annotated 'overspill parking'. Following discussions with DFI Roads and implementation of the Parking Standards, DFI Roads advised that the development should be served by 355 car parking spaces, but DFI Roads accepted 318 subject to them being provided a permanent parking spaces. Consequently a revised masterplan (Drawing no. 04D) was received with the integrated northern 'overspill parking' area into the overall parking layout. A small hedge now delineates the service road and parking area. A more substantial landscaped area sits more centrally within the car parking area to the front to break down the hard surfaced area for visual amenity purposes.
- 8.129 DFI Roads raised a concern in relation to the northern parking area and service route as it has in the past been used by the NW200 during race week. The Coleraine and District Motor Club who operate and run the NW200 have supported the application in letter dated 15.11.2017 and are satisfied that the need for overspill parking, service access and HGV turning can be provided on a permanent basis. The detail of such arrangements is a separate matter for the landowner, developer and Coleraine and District Motor Club to agree upon. However to safeguard the provision, condition 33 is imposed to ensure all hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No. 38B and to prevent these hard surfaced areas from being used for any purpose at any time other than for the parking and movement of vehicles of customers and staff of the approved development. The planning system does not exist to protect the private interests of one person against the activities of another as stated in para. 2.3 of the SPPS. It is a matter for the hotel operator to operate during road closures which is no different to Inn on the Coast (which is also located wholly within the circuit) or any other business within the triangle circuit.
- 8.130 DFI Roads has been consulted as the competent authority in relation to traffic, access, and parking matters and raises no

objection to the proposal.

## **Drainage**

8.131 The applicant appointed Ivan Scott Associates Ltd to complete a Drainage Assessment (Document 16A) for this proposal. It made the following conclusions:

- The site is not affected by flooding due to fluvial or coastal hazards.
- The site is subject to pluvial flooding from overland flows.
- There is no evidence of historical flooding at the site, however the Strategic Flood Map indicates the site is susceptible to surface water flooding in localised areas.
- An assessment of the proposed development on overland flows and drainage infrastructure was made. Two drainage design options were proposed, Option 1 with no attenuation and Option 2 with attenuation and discharge limited to a rate of 52 l/s.
- A Schedule 6 application will be made to Rivers Agency for consent to Discharge storm water into the North Atlantic Ocean via the existing drain and culvert.
- Foul drainage will be discharged into the existing sewer located on the Ballyreagh Rd.
- The flood risk due to the proposed development is not considered significant and this assessment considers the development complies with PPS15, FLD4, subject to approvals.

8.132 Rivers Agency and Northern Ireland Water have been consulted as the competent authorities on drainage matters and raise no objection to the proposal. As the applicant has not specified a preferred drainage design option and either option within the report is considered acceptable, a condition is necessary to confirm and agree the finalised design option before development commences.

## **North West 200 Area**

8.133 The proposal will also help with the delivery of the NW200 given its site specific location adjacent to the pits/start/finish area of this event. While an element of the main hotel building is to be utilised for the organisers of this event, this is small, (@300msq net internal floor space). Having regard to the scale of the

NW200 as an event is of scale not disproportionate to this and it is small when considered with the overall size and scale of the proposed building and complex. Although there may be a strong economic argument to provide this a permanent base, the uses must also be considered against the relevant policies.

- 8.134 The proposal includes an exhibition area / shop. Paragraphs 6.267 to 6.292 of the SPPS set out Regional Policy in relation to Town Centres and Retailing. While retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted there is a general exception to this. Paragraph 6.279 of the SPPS states that as a general exception to the overall policy approach, some retail facilities which may be considered appropriate outside of settlement limits include shops serving tourist or recreational facilities and such retail facilities should be required to be located within existing buildings. Given the overall scale of this part of the proposal (exhibition area and shop comprising 150 sq metres), and it is located within the proposed building (overall floor area 12,395 sq metres), and it is a shop serving a tourist facility, it is considered an ancillary element which complies with Paragraph 6.279. It is also considered that due to the scale and nature of the retail tourist offer, there will be no unacceptable adverse impact on the vitality and viability of Portstewart town centre. A condition is necessary to limit the scale of the use.
- 8.135 The office development falls to be considered as Use Class B1 (Offices). The scale of this is very small and is ancillary to the overall scale and nature of the application proposed. There is no land zoned for economic development within Portstewart and there is a site specific argument that this building provides a permanent home for the NW200 at this location.
- 8.136 Policy PED 2 is the policy for considering economic development in the countryside. It sets out in what circumstances this may be acceptable. The scale and nature of this proposal does not fall within any of the categories listed. In this case the policy states that all other proposals for economic development in the countryside will only be permitted in exceptional circumstances. The SPPS recognises that economic development outside settlement limits must be resisted, however acknowledges that a small scale new build economic development project may be

permissible outside a village or small settlement where there is no suitable site within the settlement and that an edge of settlement location will be favoured. Having regard to these policy considerations, and although Portstewart is not a village or small settlement, it does not have any land zoned for economic development. Furthermore, there is a site specific consideration for having office space within this building for helping to deliver the NW200. The scale of the office space with meeting room (90 sq metres) is limited to a small office area that may accommodate no more than 5 people. It is also located on the edge of the settlement which is the favoured location set out within the SPPS. On balance, comparing the size of this element, relative to the overall proposal at 12,395 sq metres, it is reasonable to conclude it is an ancillary element within this building and therefore meets policy. A condition limiting the scale and nature of this is necessary.

### **Consideration of Objections**

- 8.137 Notwithstanding that many of the objections raised have been considered under the correlating or relevant subject headings within this report, further consideration is given below to address any outstanding objections:
- Principle/Economic Need: The predominant use of the proposal would be a large hotel, incorporating conference and spa facilities. There are holiday cottages, NW200 centre and demonstration restaurant operating incidentally to the main use. As such the proposal has been considered and assessed as a hotel with due weight given to the impact of all components.
  - TSM4 was not applied for reasons set out in paragraph 8.14.
  - The Department for Infrastructure, Strategic Planning Division confirmed the application should not be called in under Section 29 of the Planning Act (Northern Ireland) 2011 in letter dated 29.11.2017.
  - There is no supplementary text or guidance as to how far a sequential test should extend. The locality has been assessed and no alternative site has been identified within the settlement limits of Portrush or Portstewart which are two of the most popular tourist towns within Causeway Coast and Glens Borough and it is

considered this was an adequate assessment for this purpose.

- Residential Amenity: This is considered thoroughly throughout the report under various headings. A bund to the west of no.120 Ballyreagh Road is proposed as part of the scheme to help reduce the impacts on the amenity of this property. Environmental Health has been consulted as the competent authority on residential amenity matters and it raises no objection subject to the mitigation measures being put forward to protect residential amenity. As such other than the loss of a view and the change in character of the area, there is no detrimental impact as to withhold planning permission.
- Some of the matters raised regarding residential amenity such as the de-valuation of properties, or the impact on an individual's view, are afforded little weight in a planning context.
- Natural Environment: The impact on the setting of the Skerries and Causeway SCI, LLPA and SLNCI are considered within Paragraphs 4.11- 4.12 and 8.97-8.99. In considering protected species and in particular wintering seabirds, NIEA has confirmed that, according to records, open coast line such as that adjacent to the development site tend to lack extensive areas of soft sediments containing high numbers of prey items, therefore they typically hold much lower densities of wintering water birds than estuarine coasts. No parts of the open coast in the vicinity of Portstewart hold nationally significant number of wintering Oystercatcher or Curlew. As such any impact is very likely to be limited to displacement from roosting area, for which alternatives are widely available along the adjacent coast. NED concluded that the impact of this project on wintering waders is unlikely to affect survival or productivity to a degree that would have a significant adverse effect at the source population level. The applicant submitted an Ecological Appraisal (Document 09 Date Received 20.10.2016) which has considered the legislation and planning policy context, outlines the reports methodology, considers the baseline conditions and impact assessment, and concludes with a conclusion and mitigation measures. The report considers various species including badgers, otters, birds, and common lizard. The Natural Environment Division of NIEA has been consulted as the competent authority in this regard and advises that it has considered the impact of the proposal on designated sites and other natural heritage interests and, on the

basis of the information provided, has no concerns. NED also state that although letters of objection advise that the application site may be used by protected species, the Ecological Appraisal (Document 09) and NED ornithology records indicate the proposed development is unlikely to have an impact on protected species. There is no objection to the proposal or ecological appraisal, and therefore the proposal complies with PPS2: Natural Heritage.

- The design has been considered within Paragraphs 8.62 – 8.74. The design is also considered under different policy to a balcony on a dwelling, and each application must be assessed on its own merits.
- Access and Traffic: This is considered under paragraphs 8.122 - 8.128. DfI Roads has been consulted as the competent authority on such matters and raises no objection. It is considered to comply with the policy requirements of PPS3, PPS13, PPS21 and DCAN 15.
- Other: Heritage assets to the north are considered under paragraphs 8.104-8.106.
- Planning legislation does enable applications to be made to vary Section 76 agreements but in considering any such application, the Planning authority would make a decision based on the Development Plan and all other material considerations just in the same way as it has done for the present application. However, in this case it is recommended that the development be regulated by planning conditions.
- An issue has been raised in regard to representations which have been submitted electronically and that there is a need to seek postal addresses of those individuals. It is unclear as to the reason why this matter has been raised or the nature or need for this information. However, all individuals who have submitted representations, either by post or electronically, are notified, if necessary, by the means in which they have communicated with the Planning Authority.
- The granting of planning permission would not allow for inappropriate alternative uses if for some reason the proposal does not go ahead. Any future use is purely conjecture and

would be subject to, and assessed against, the relevant planning policy prevailing at that time.

- The overall start to end construction period is not a matter that the Planning Authority would seek to condition.
- Environmental Health has been consulted as the competent authority and has suggested that a condition is applied restricting construction hours. On considering the objections, it is considered that this condition should also apply to delivery vehicles.
- Under Part 5 Class A, Temporary Buildings And Uses, any temporary buildings benefit from Permitted Development.

## **9.0 CONCLUSION**

- 9.1 This is a significant proposal on the edge of Portstewart, located just outside the existing settlement limit and adjoins the Old Portstewart golf course. Given the scale of the development, it will have an impact on the immediate environment and has generated much objection. However, it will not directly impact or effect any designated or protected site or species.
- 9.2 There is a significant economic factor in terms of employment both during construction and longer term within the hotel and its ancillary uses. There are also economic benefits to the local and wider economy with the proposal gaining support from several official organisations. There is also strong local and wider support for the proposal.
- 9.3 The proposal requires access onto a protected route and it satisfies policy in this regard. The proposal has been considered against other environmental criteria and also satisfies policy.
- 9.4 The general design, layout, uses and principle of the proposed hotel and ancillary buildings are considered acceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS and PPS16. The site is on the edge of the settlement limit of Portstewart which allows for the principle of development as it satisfies the criteria of TSM 3. The proposed holiday chalets are considered acceptable

in their context and the proposal complies with policy requirements set out in TSM 5. The conference facilities, spa and leisure element, demonstration restaurant, retail element and office use for the NW200 comply with the relevant policies and are considered acceptable as part of the wider hotel offering. When balancing the proposal against the objections and any likely impact on general amenity, including visual and residential issues, approval is recommended.

## 10. 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 exhibition space and tourist retail offer hereby approved, shown in the area shaded orange on Drawing No 04D date stamped received 8<sup>th</sup> May 2017 shall be restricted to a maximum floor space of 150sq metres measured internally

Reason: To enable the council to control the nature, range and scale of retailing to be carried out at this location so as not to prejudice the continuing vitality and viability of existing town centres.

3. The office use and meeting room hereby approved shown in the area shaded orange on Drawing No 04D date stamped received 8<sup>th</sup> May 2017 shall be restricted to a maximum floor space of 90sq metres measured internally

Reason: To control the size and scale of this use due to its location outside the settlement limit.

4. The self-catering accommodation hereby approved, Type A and Type B and coloured green on drawing no. 04D dated 8<sup>th</sup> May 2017 shall be used only for holiday letting accommodation only and shall not be used for permanent accommodation.

Reason: The site is located outside the settlement limit of Portstewart where planning policy restricts development and



this consent is hereby granted solely because of its proposed holiday use.

5. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no building, structure, hard surface or enclosure incidental to the enjoyment of the holiday cottages hereby approved shall be erected within the site as indicated by the redline on Drawing No. 01 date stamp received 20<sup>th</sup> October 2016.

Reason: To preserve the visual amenity of the countryside.

6. The self-catering accommodation hereby approved, shall not be occupied until the hotel building is complete and fully operational.

Reason: To ensure the delivery of the hotel building which is the primary use of the site.

7. The demonstration restaurant hereby approved, shall not become operational until the hotel building is complete and fully operational.

Reason: To ensure the delivery of the hotel building which is the primary use of the site.

8. The demonstration restaurant hereby approved is limited to Class D1, Community and Cultural Uses of the Schedule of the Planning (Use Classes) Order (Northern Ireland) 2015 and for no other purpose.

Reason: In the interests of neighbouring amenity.

9. All hard and soft landscaping shall be carried out in accordance with drawing No. 38B dated 11<sup>th</sup> May 2017 and 39B dated 11<sup>th</sup> May 2017 and the appropriate British Standard or other recognised codes of practice. The works shall be carried out prior to the occupation of any part of the development hereby approved.

Reason: To ensure the provision of a high standard of landscape.

10. The scheme of planting hereby approved shall be carried out in accordance with drawing No. 38B dated 11<sup>th</sup> May 2017 and 39B dated 11<sup>th</sup> May 2017 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

11. The scheme of planting hereby approved shall be carried out and thereafter maintained in accordance with the Landscape Design Statement Doc 12 Rev01 dated 11<sup>th</sup> May 2017 and Landscape Management and Maintenance Plan Doc 11 Rev 01 dated 11<sup>th</sup> May 2017 unless otherwise agreed in writing by the Council.

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

12. No development shall commence until surface water drainage works on-site and off-site have been submitted to, and approved in writing by the Council. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Council.

Reason: To ensure adequate and suitable drainage from the site and safeguard the site and adjacent land against flooding and standing water.

13. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Council. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by

preservation of remains, and for preparation of an archaeological report.

Reason: To ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

14. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Council to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

15. All construction activity shall be confined within site boundaries, and the boundary of the designated areas shall not be disturbed in any way without written consent from the Council.

Reason: To protect the integrity of Skerries and Causeway SCI, and to avoid it being damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended).

16. No development shall commence until a final Construction Environmental Management (CEMP) Plan has been submitted to and agreed by the Council, in consultation with NIEA. This must reflect if any pile driving, rock dumping, blasting or drilling works associated with the proposal is required and all mitigation and avoidance measures to be employed to include a noise risk impact assessment.

Reason: To prevent any injury or disturbance to sensitive receptors such as European protected species Harbour porpoise or nationally protected species such as seals.

17. Site preparation, enabling and construction works, including associated deliveries, shall be undertaken in accordance with Sections 5.10 and 5.11 of the Construction Management Plan, October 2016 (Document 13A, date stamped 21st February 2017). Noise and vibration impacts shall be minimised and controlled by employment of best practice and mitigation measures in accordance with BS 5228, Parts 1 and 2, 2009, "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

Reason: In the interests of residential amenity.

18. Site preparation, enabling and construction works and associated deliveries, shall not take place outside of the following hours, without the prior written consent of the Council:

- 07:00 - 19:00 hours Monday - Friday
- 07:00 - 13:00 hours Saturdays
- No working on Sundays

Noise levels shall not exceed the threshold values as stipulated within Section 5.10 of the Construction Management Plan.

Reason: In the interests of residential amenity.

19. Noise levels during construction shall not exceed the threshold values as stipulated within Section 5.10 of the Construction Management Plan.

Reason: In the interests of residential amenity.

20. The proposed noise bund, indicated on Drawing No. 57 date stamped 7<sup>th</sup> April 2017, to the west of No.120 Ballyreagh Road, Portstewart, and adjacent to the proposed access road, shall be constructed and retained in perpetuity prior to the construction of the hotel building.

Reason: To safeguard the amenity of No.120 Ballyreagh Road, during and after construction.

21. Dust mitigation measures shall be implemented during site

preparation, enabling and construction works including deliveries to minimise the generation and movement of dust from the proposed development to sensitive receptors. The dust mitigation measures employed shall be in accordance with the Institute of Air Quality Management, "Guidance on the assessment of dust from demolition and construction, (2014)".

Reason: In the interests of residential amenity.

22. The rated noise emissions from the permitted development, measured in accordance with BS 4142:2014 "Methods of rating and assessing industrial and commercial sound", shall not exceed the levels within Table 1 – Noise Limits:

Table 1 – Noise Limits

Receiver	Daytime 07:00 – 23:00 hours, (LAeq, 1 hour)	Night-time 23:00 – 07:00 hours, (LAeq, 15mins)
Stone Coottage, Ballygelagh Village	36.6dB	32.4dB
108 Ballyreagh Road	35.8dB	31.8dB
1 Ballygelagh Village	34.4dB	30.8dB
3 Ballygelagh Village	34.1dB	30.4dB
120 Ballyreagh Road	40.6dB	39.3dB
50 Portrush Road	34.7dB	33.9dB
49 Portrush Road	34.1dB	33.2dB
100 Ballyreagh Road	33.7dB	31.1dB

Reason: In the interests of residential amenity.

23. Within 6 months of the development first accommodating paying guests, or within 4 weeks of the Council being notified of a reasonable noise complaint, from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the permitted development operator shall at his/her expense employ a suitably qualified and competent

person to undertake a noise survey to assess the level of noise immissions from the permitted development. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with all plant and equipment fully operating. Details of the noise monitoring survey shall be submitted to the Council for written approval prior to any monitoring commencing, at least 2 weeks notification of the date of commencement of the survey shall be provided. The noise survey information shall be provided within 3 months of the date of a written request from the Council.

Reason: In the interests of residential amenity.

24. If during the development works, new contamination or risks are encountered which have not previously been identified, works shall 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 human health and environmental receptors to ensure the site is suitable for use.

25. After completing any remediation works required under Condition 24 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report shall 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 the risks and achieving the remedial objectives.

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

26. The extraction systems to all kitchen areas shall be designed and operated in accordance with best practice and performance requirements as detailed within DEFRA Guidance, (2005) "Control of odour and noise from kitchen exhaust systems" and

shall be installed and maintained to achieve the odour control criteria commensurate with those detailed as: "High Level of Odour Arrestment Plant Performance".

Reason: In the interests of amenity.

27. The lighting scheme for the development hereby approved shall be designed, installed, operated and maintained to achieve the Lighting Standards stipulated within the "Light Assessment Report at Proposed New Hotel at Portstewart" (Document 18, date stamped 29th March 2017) and detailed on Drawing No.55 date stamped 29<sup>th</sup> March 2017.

Reason: In the interests of amenity.

28. No development shall commence until the vehicular access, including visibility splays is provided in accordance with Drawing No's 56 (Access Detail Plan), 43C (Longitudinal Section), 40C, 41C, 42C, 46C, 53A (Cross Sections) bearing the date stamp 3rd April 2017 and Drawing No. 52C (Construction Details) bearing the date stamp 15th May 2017. 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.

29. The development hereby permitted shall not become operational until the proposed right turn lane is provided in accordance with Drawing No's 56 (Access Detail Plan), 43C (Longitudinal Section), 40C, 41C, 42C, 46C, 53A (Cross Sections) bearing the date stamp 3rd April 2017 and Drawing No. 52C (Construction Details) bearing the date stamp 15th May 2017.

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

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

The development hereby permitted, shall not be operational until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing No. 56 bearing the date stamp 3rd April 2017. 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.

31. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 56 bearing the date stamp 3rd April 2017.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

32. The access gradient to the development hereby permitted shall not exceed 4% (1 in 25) over the first 20 m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

33. The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No. 38B bearing date stamp 11th May 2017 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles of customers and staff of the approved



development.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

34. All services within the development should be laid underground.

Reason: In the interests of visual amenity.

## **Informatives**

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.

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.

This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Planning Authority or other statutory authority.

## Environmental Health

### Entertainment Licensing Regime – Noise

The applicant is duly informed that should entertainment be intended to be provided to the public, that specific legislative requirements pertain, a licence will be required from Causeway Coast and Glens Borough Council under the Local Government (Miscellaneous Provisions) (NI) Order 1985.

Any associated noise impacts will be controlled via the aforementioned regime (conditions of the licence) to ensure that entertainment noise levels will not adversely impact neighbouring dwellings.

### Food and Health and Safety Legislative Requirements

The applicant is advised that all new food premises must be registered with Causeway Coast and Glens Borough Council, Environmental Health Services Department under Regulations EC 852/2004, this should be completed prior to opening.

The premises will be regulated under Food Safety and Health and Safety legislative requirements, the applicant may wish to discuss specific design/layout and conformance requirements at an early stage, with officers within the Environmental Health Services Department.

### Refuse Collection

The applicant shall ensure that there is suitable and sufficient provision for storage of refuse adequate facilities shall be provided to obviate impacts due to pests, odour and litter. Waste storage receptacles shall be utilised and emptied without giving rise to adverse impacts to sensitive receptors in the locality.

### LPG Installation

The applicant is advised that any proposed LPG installation will be required to be risk assessed, designed, built and installed in accordance with the UK LPS Code of Practice Part 1 - Bulk LPG Storage at Fixed Installation: Design, Installation and Operation of Vessels Located Above Ground.

### DFI Roads

The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewer

The Applicant is advised that developers are also now responsible for the cost of supervision of the construction of streets determined under The Private Streets Order. A fee of £1,000 plus 2% of the total Bond value will be paid directly to TransportNI before the Bond Agreement is completed.

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.

All construction plant and materials shall be stored within the curtilage of the site.

The applicant is advised to contact the Street Lighting Section at County Hall, Coleraine in order to arrange the relocation of existing street lighting equipment.

#### Rivers Agency

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.

#### NI Water

No connection should be made to the public sewer from 23rd May 2016, in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), until the mandatory Sewer Adoption Agreement has been authorised by NIW.

Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland).

Applicants should contact NI Water's Water Fittings Regulations team via [waterline@niwater.com](mailto:waterline@niwater.com) if they have any queries.

## Historic Environment Division

For guidance on the preparation of the Written Scheme and Programme of

Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact: Historic Environment Division – Historic Monuments, Causeway Exchange, 1–7 Bedford St, Belfast, BT2 7EG, Tel: 02890 823100, Quote reference: SM11/1 LDY 3:9

Application for the excavation licence, required under the *Historic Monuments and Archaeological Objects (NI) Order 1995*, should be submitted at least 4 weeks before work is due to begin, by a qualified archaeologist responsible for the project, to: Historic Environment Division – Historic Monuments Unit  
Causeway Exchange, 1–7 Bedford St, Belfast, BT2 7EG

## NI Environment Agency

### 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, injure 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 marine national 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 DAERA Marine and Fisheries 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.*

### 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 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,

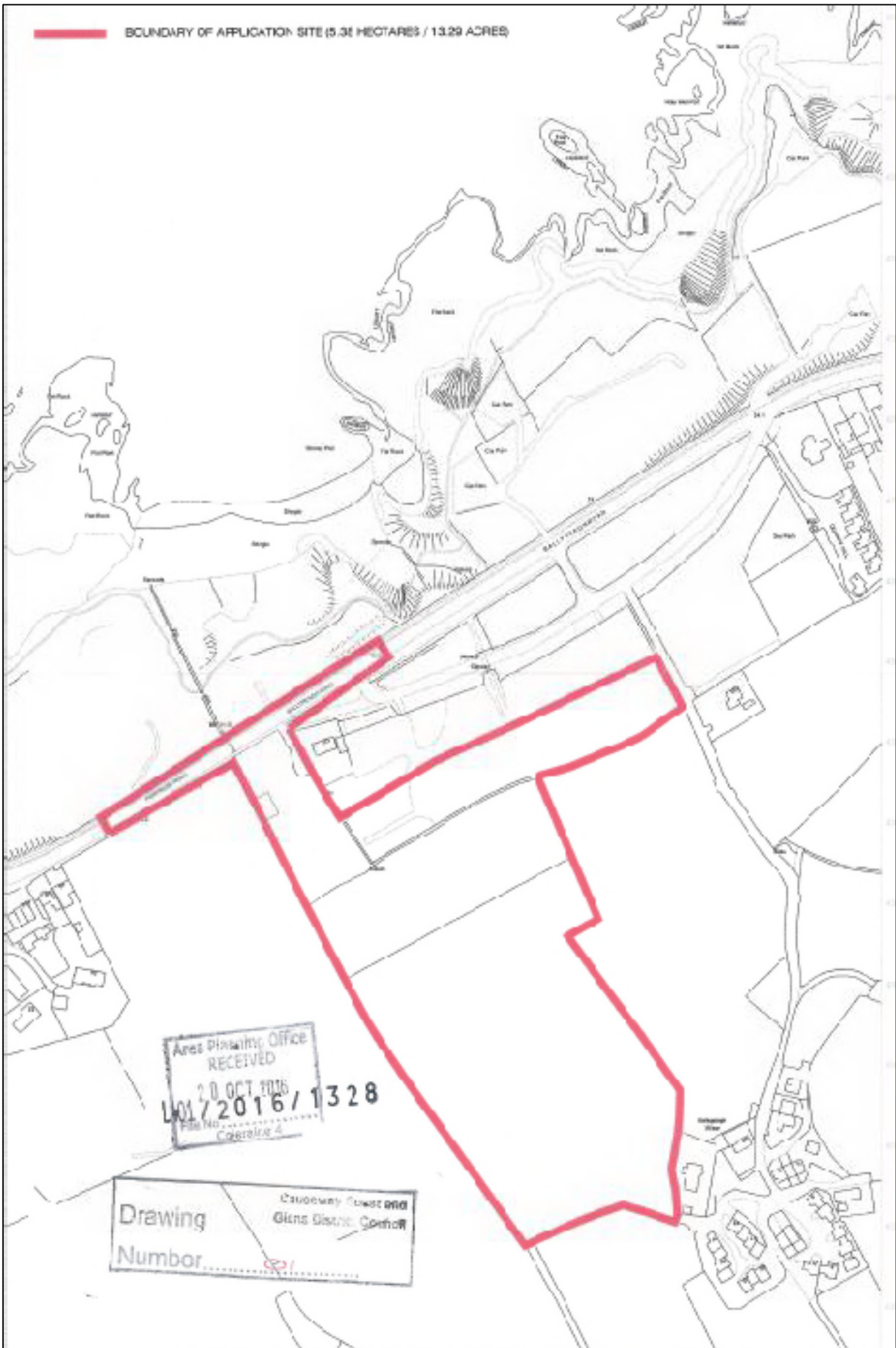
any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

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 DAERA Marine and Fisheries 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\\_a11.pdf](http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_a11.pdf)



# **Addendum**

## **LA01/2016/1328/F**

### **Full Planning**

#### **Update**

One further letter of support was received 12.01.2018. It considers the proposal to create much needed investment into the area. This issue is already addressed in paragraphs 8.52 – 8.62 of the Planning Committee Report.

#### **RECOMMENDATION**

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



# **Addendum 2**

## **LA01/2016/1328/F**

### **Updated Executive Summary**

This application is for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction (including exhibition space, tourist retail unit (c.150 sqm) and office space), demonstration restaurant, car/coach parking, access/junction alterations, landscaping, private sewerage treatment plant and water bore holes together with associated apparatus/infrastructure works on land south of 120 Ballyreagh Road (A2), Portstewart.

Consideration of this proposal is set out in the Planning Committee Report and Addenda.

This application is Major and was subject to a Pre-Application Community Consultation which took place on 18 June 2016 with 43 questionnaires completed. The application was submitted with various documents, including a pre-application community consultation report and was made valid on 01 November 2016. All relevant consultees and neighbours were notified and the application was advertised in the local press. As a result of the consultation process there were a total of 135 letters of objection, 181 letters of support, one petition of support, one petition of objection and two non-committals. All consultees had no objection subject to conditions where necessary.

There are several policy documents and guidance that apply to this application. The main policy consideration is Planning Policy Statement 16: Tourism which considers the principle of a hotel.

In assessing the application, there are several matters that have been considered, including those raised within the letters of objection. Other matters of consideration include:

- The principle of development

It is considered that the principle of the development at this edge of settlement location is acceptable having regard to policies TSM 3, TSM 5 and TSM 7 of Planning Policy Statement 16.

- Portrush hotel study

Although this study may be informative, and is a consideration in processing this application, it is not a planning document and has not been through any formal inquiry or examination, so should therefore be afforded limited weight as a material consideration.

- Economic considerations

This proposal is a large scale investment which will cost upwards of £15million to deliver and would create significant construction jobs and, when operating close to 100 full time jobs. This proposal, both locally and regionally, would go some way in meeting an objective of the Executive creating jobs and investment to stimulate the local and regional economy and promote long term growth.

- Impact on residential amenity

There will be a change on the existing properties around the site, including an impact on views, and changes to the level of noise, odour and light. Having consulted with Environmental Health in this regard, the proposal is not considered to have an unacceptable adverse impact on residential amenity.

- Sewage Treatment Plant and Boreholes

The application now includes a private sewerage treatment plant and boreholes to provide water for the development. Consultees have raised no concerns in relation to this method of sewage disposal or with the use of groundwater abstracted via a borehole. Noise and Odour Impact Assessments were submitted. Environmental Health was consulted and advised in terms of the ambient level of noise and the specific source, it is deemed to present a very low/negligible noise impact at receptors and conditions relating to noise are recommended. Environmental Health advised there is no adverse

comment in relation to odour impacts, subject to conditions to protect amenity.

- Design of the proposal

The design is modern with architectural consistency between the buildings which results in integrity to the scheme. The hotel building is large, consisting of up to 3 floors and an overall height of 11.5 metres rising to a highest point of 13.5 metres. There are significant amounts of glass within the buildings, particularly to the northern and western elevations, which maximise the views. The car parking has been broken up by the buildings and landscaping to avoid a 'sea' of hardstanding and the other buildings have been integrated within the existing landscape. It is considered that the design is acceptable.

- Visual impact on the landscape

A landscape and visual assessment has been carried out which identifies a total of 11 viewpoints. The proposal has been assessed both before and if construction took place. The proposal will have a visual impact on the landscape. However, the built form is considered acceptable and compatible with the surrounding area which will not detract from the landscape quality or character of the area.

- Impact on the adjoining Site of Local Nature Conservation Interest (SLNCI) and two adjoining Local Landscape Policy Area's (LLPA)

The site is not located within any SLNCI or LLPA. Therefore the relevant plan policies do not apply. Having regard to the designations, it is considered that the proposal will not have any adverse impact on these.

- Northern Area Plan Examination in Public

An objector has raised a representation to the Northern Area Plan and the commentary of the findings from the Planning Appeals Commission to this. However, this representation and commentary relate to an adjacent parcel of land and not the application site. This is therefore given little weight as a material consideration.

- Impact on Archaeological potential of the site and historic assets.

Historic Environment Division was consulted in this regard. It concluded that the proposal would have an overall low potential direct or indirect impact upon designated and non-designated assets within the surrounding area and therefore the proposal is considered acceptable in this regard.

- Impact on the Coast

The coastline along the Causeway Coast is extremely sensitive, inland subject to several zonings and designations. This site lies outside any of the areas designated, zoned or identified as an area of amenity value. Therefore, the proposal will not have an unacceptable impact on the coast.

- Traffic and parking

The application proposes to access onto a protected route and requires 318 car parking spaces. DfI Roads has been consulted as the competent authority on the proposal and raise no objections. Given the specific circumstances, access to the protected route is considered acceptable. The proposal is considered acceptable regarding road safety and parking provision.

- Drainage

A drainage assessment has been submitted and DfI Rivers consulted as the competent authority in this regard. DfI Rivers has considered this assessment and, subject to approving the final design details, raises no objection.

- NW200 Proposal

The application proposes to utilise a small area of floorspace for the use of the NW200 event. This includes an exhibition/retail space and some office accommodation. Having regard to the ancillary nature of this in relation to the overall scheme, it is considered that this element is acceptable.

- Updated Site Selection Exercise

Given the passage of time since it was last undertaken, an updated sequential site selection exercise has been undertaken in accordance with Policy TSM 3 of PPS 16 Tourism.

- Updated Information on Delivery of Project

Given the passage of time since it was last provided, updated information on delivery of the project has been undertaken in accordance with Policy TSM 3 of PPS 16 Tourism.

- Other Considerations

Additional information is provided in the Addendum addressing specific issues raised in the High Court Judgement in the context of the Judicial Review of the previous decision and on other relevant matters.

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

## 1.0 Update

- 1.1 Subsequent to an initial decision to approve the application on 29 June 2017, the decision was quashed by the High Court on 06 September 2017. Following this, the application was presented to the Planning Committee on 24 January 2018 where the Planning Committee resolved to approve. The application issued as an approval on 05 March 2018. Further to that, the decision was subject to judicial review and was quashed by the High Court on 09 August 2019.
- 1.2 Since the last Planning Committee Report, a total of 155 representations have been received in relation to this application. There are 60 letters of objection, 94 letters of support and 1 non-committal representation.
- 1.3 The development proposal has changed in that there is an amended description to include a private sewerage treatment plant and water bore holes together with associated apparatus. The application description is now:  
  
*Full application for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction (including exhibition space, tourist retail unit (c.150 sqm) and office space), demonstration restaurant, car/coach parking, access/junction alterations, landscaping, private sewerage treatment plant and water bore holes together with associated apparatus/infrastructure works on land south of 120 Ballyreagh Road (A2), Portstewart, BT55 7PT.*
- 1.4 The application also includes a change to the access arrangements. Further to submission of these changes, the proposal was re-advertised and neighbours/ those who made representations re-notified. Further consultation was carried out with DFI Roads, Environmental Health, NI Water, NIE, DFI Rivers, DAERA: Marine and Fisheries Division, DAERA: Water Management Unit, DAERA: Drinking Water Inspectorate, DAERA: Regulation Unit, DAERA: Natural Environment Division, Shared Environmental Services, Historic Environment Division: Historic Monuments and Northern Ireland Tourist Board (NITB).

- 1.5 Further information and documents have been submitted by the Agent in support of this application which are available to view on public access under the planning reference number via the link – <https://planningregister.planningssystemni.gov.uk/simple-search>

## 2.0 Representations

- 2.1 The following is a summary of all objections raised and points of support received since the last planning committee report. This is correspondence received after 12 January 2018.

### Objections

#### Access onto the Protected Route and Traffic Impact

- Policy AMP 3 does not recognise the mechanism of relocating an existing access. Relocating and enlarging an extant vehicular access is incompatible with Policy AMP 3. The new access bears no resemblance either in location or presentation to the existing access. Access must be by an existing access, not by a widened or relocated access. The Council cannot defy this judicial ruling.
- There is no traffic survey or transportation assessment.
- Objections to the profile, width and setting of the access.
- Dfl Roads has failed to adequately address all substantial points raised by objectors. It is unsustainable for Dfl Roads and the applicant to rely on traffic data from an economic report rather than from the Trics database. No model of junctions has been provided. Traffic will be 4 times the value declared in the Traffic Assessment.
- The agent claims “The proposed access design will be delivered entirely within lands under the control of the applicant or within the adopted highway boundary where required...” – This is factually incorrect.
- *Report (Transport Planning MRA Partnership) provided by Jim Allister on roads and transport issues.* This shows failings in the applicant’s presentation and in the consideration of the application to date and by Dfl Roads. The conclusion should be to refuse under Policy AMP 3 of PPS 21. The proposal will have a

significant traffic impact undermining the findings of the Transport Assessment. It has not been demonstrated that there will be no significant traffic impact arising from this proposal. Whilst mitigation has been proposed in the form of a right hand lane, it has not been demonstrated that this has been designed adequately to address the traffic impact of this proposal. The proposal is contrary to Policy AMP 6 of PPS 3.

- Transport Assessment figures not accurate in comparison to Technical Note 01. Figures would be out of date now.

### Archaeological Issues

- Piling of spoil adjacent to boundary of No. 22 Ballygelagh Village
- “Programme for Archaeological Works” and the “Cultural Heritage Addendum” fail to address this pile of spoil. The agent claims the soil stripped has been re-instated but soil still remains piled beside No. 22 Ballygelagh Village.

### Inaccurate Plans

- Drawing No. 04E is not accurate in relation to levels at the south east boundary with No. 22 Ballygelagh Village because the applicant changed the natural landscape by unauthorised dumping of spoil in 2018. This plan should be updated.

### Impact upon amenity of nearby residents

- Obtrusive screens proposed will impede views to the west and Donegal headlands
- Traffic generation resulting in harm to the amenity of No. 120 Ballyreagh Road (noise, fumes, lights, disturbance)
- Revised access will compromise the safety of access to and from No. 120 Ballyreagh Road.
- Proposed hotel is overbearing and will result in overshadowing and overlooking of No. 120 Ballyreagh Road.
- Impact upon amenity of Ballygelagh Village residents by way of noise, odour and light pollution
- Loss of amenity to No. 108 Ballyreagh Road.
- Loss of privacy to neighbours



- Prevailing wind will carry all the hotel generated odours directly to No. 22 Ballygelagh Village. This has not been considered in the “Addendum on Odour Risk Assessment”.
- Objection to the 2m high fence along the boundary with No. 22 Ballygelagh Village
- Sea views impeded
- Noise and Odour

### Urban Sprawl

- This green wedge is critical between Portrush and Portstewart and provides the sense where town meets country.
- Adverse impact on the landscape setting of Ballygelagh Village and Portstewart
- Approval of proposal would result in urban sprawl creating an undesirable precedent
- To dismiss the PAC finding for a tourist proposal for the field adjacent is unacceptable. The PAC regarded the land as an “important physical and visual break between Portrush and Portstewart which should be retained free from any unnecessary development.”

### Impact upon visual amenity and local character

- Adverse impact on visual amenity and rural character because the site does not have the capacity to absorb the proposed hotel and associated buildings due to the topography and open nature.
- Results in suburban style build-up
- Unacceptable scale of development
- Inappropriate development for this location
- Blight on existing open space
- Lack of computer-generated views from Ballygelagh Village and its approach road which are critical views
- Impair scenic views
- Adverse impact on adjacent SLNCI and LLPAs
- Lack of proper consideration of Policies CTY 13, 14 and 15 of PPS 21. Fails to meet these policies based on inappropriate scale, form and massing as well as the amount of hard surfacing for car parking.

### Impact upon natural heritage

- Proposed Hotel would have a significant adverse ecological impact.
- Negative impact upon the established character of the important green corridor which is utilised by migratory birds, including the endangered curlew and rear corncrake.
- Green field is a winter-feeding area for curlews and lapwings, which are endangered. Irish hare and birds of prey have also been sighted.

### Private sewerage treatment plant and water bores

- Impact on water table in this area
- Impact on wildlife in area
- Additional odour and noise generated from such apparatus
- Potential risk to the adjacent coastline and this environmentally sensitive area
- Potential spillage from treatment plant into the sea
- Document does not show mechanical design of the sewage treatment plant
- The NI Assembly advised the sewerage network serving the area between Portrush and Portstewart will be incorporated into NI Water's unconstrained Price Control 27 Business Plan (2027-2033). Planning permission should not be granted before deficiencies in the sewerage facilities are addressed.
- Insufficient information on the methodology, frequency and odour consequences of any desludging operations and maintenance.
- Insufficient information on the discharge arrangements in respect of a large site so close to the sea.

### Sequential Testing Flawed

- Sale of the Dunluce Centre is a viable option for this Hotel development within the settlement limit of Portrush. Another option is the Inn on the Coast which has not been explored adequately. Cromore House option was ignored.
- Dunluce Centre – Agent claims there are restraints on the lands adjacent, but minutes of the Leisure and Development Committee of 20 April 2021 show that a tenderer has offered to buy an extra 4

acres of the additional land available. The applicant has not given adequate consideration to this site within the development limit.

- Failure to explore acquiring adjacent land suggests the process of sequential site assessment lacks credibility.

### Unviable nature of proposal

*Recent upgrades and new developments in the vicinity have increased high-end supply*

- Present current need for this Hotel not demonstrated – Several existing hotels in the area are mentioned as well as Hotels under construction and Hotels to be built in the near future. Numerous Hotels have been approved since the original decision.
- There is no specific need for such a hotel complex on this site. There is a reduction in hotel stays due to the impact of inflation on disposal incomes. There are also increasing costs for labour and materials. The York Hotel and Magherabuoy Hotels have closed showing current supply is clearly sufficient to meet demand. The addition of Me and Mrs Jones and Elephant Rock as well as the new 5 star spa hotel at Royal Portrush should suffice for the area.

*Current challenges in the hospitality sector affecting demand*

- Future concerns relate to energy costs; reduction in people's disposable income; and non-energy operation costs. Even Hotels that were able to stay open throughout the pandemic are now closing such as the York Hotel and the Magherabuoy House Hotel.

*Lack of funding and lack of updated cost projections*

- Rise of interest rates today 5% compared to 0.25% in 2016. Updated cost projections should be provided. The former Londonderry Hotel in Portrush was an initial £6.6 million to build in 2018 whereas in July 2023 it is £11 million. This is an increase of 67%.

*Financial standing of the applicant*

- How can the Council have confidence the company whose financial statements are not subject to external audit, can secure funding and/or sustain the viability of the entire project given the challenging circumstances? Council should receive updated full project costings from the applicant, as well as further insight into the levels of funding secured to enable informed consideration of the viability and the financial security that underpins the claimed viability of this application.
- Uncertainty that funding has been secured to enable the project to be completed in a timely fashion. Cost increases have not been taken into account since 2017.
- The financial viability of this proposal in the current economic difficulties, lack of any invest NI funding and questionable robustness of the developers.

*Continued confusion/ obfuscation of third party involvement*

- Is Don Hotels Ltd involved this time round? This company is technically insolvent with over 1.3 million owed to creditors and has no employees. How can a registered dormant company, without employees or a track record in the hotel industry, be relied upon to purchase a site from the applicant (if this remains the intention) let alone develop a site with project costs likely to be circa 25 million?
- Information on the oversight, management and financing of the proposed site remains unclear.

*Lack of control of whole site renders it non-viable*

- The applicant has no ownership, possession, legal access to or control over this area of overspill parking.

Extraordinary Audit Findings on site access easement are a material consideration

- The findings were:
  - The grant of the easement was not properly authorised
  - The easement was granted without proper compliance with Section 96 (5) of the Local Government Act (NI) 1972
  - The easement was otherwise granted without considering key matters

- Consideration of NIAO Extraordinary Audit - £1 access easement was not granted lawfully. This raises fundamental questions about the viability of the proposal as well as the lawfulness of any approval granted. This is a material consideration pointing to refusal of this application.
- Unlawful grant of easement questioning legal access to the site
- Dissatisfaction with Council's total disregard for compliance procedures as outlined in the NIAO Extraordinary Audit. Review of this application must take the Audit report into account.

### Tourism Planning Policy

- Policy TSM 4 of PPS 16 should be used to assess this application and not Policy TSM 3 because this proposal is for a Hotel plus retail, offices, exhibition centre, conference centre, spa, cottages, restaurant etc. This Hotel is also marketed by the applicant as a home for the NW200.
- Lack of consideration of Paragraph 7.17 of PPS 16. Paragraph 7.17 states "This policy will not facilitate approval of relatively minor proposals for tourism development, for example a single guest house or small scale self-catering development, as such proposals are unlikely in themselves to offer exceptional benefit to the tourism industry or be of a scale that requires a countryside location. However, a proposal that offers a tourist amenity likely to attract significant numbers of visitors along with a commensurate level and quality of visitor accommodation will fall to be considered under this policy."
- Contrary to Policy TSM 3 of PPS 16 – not on the periphery of a settlement but separated from it by a Landscape Policy Area. Not contingent with built development of Portstewart. Proposal would dominate the critical approach along the coast road to Portstewart.

### General Points

- Lack of engagement with Agent/Applicant and Ballygelagh Village Owners Association
- Paragraph 4.4 of the applicant's "Design and Access Statement" claims there were scoping meetings with Ballygelagh Village Residents before progression of the application – this is incorrect.

- Council indifferent to the rights and interests of Ballygelagh Village residents
- Principle of development unacceptable
- Evaluation of all points made in earlier letters
- The 'new red line' being accepted under this application is wrong in law and principle. The increase in red line should not have been allowed as an amendment to this application.
- Judicial review confirmed there was neither a need for this hotel or a right to build it.
- Wish for the Department of Infrastructure to call in this application under Section 29 of the Planning Act (NI) 2011 – have no confidence in the Council given determinations on this application have been quashed
- Proposal not compatible with the surrounding land use
- Loss of unique backdrop to the NW200
- Potential for antisocial behaviour in the vicinity of the Pitts
- Site assembly issues
- NW200 is not a tourist amenity, but a transient event as detailed under LA01/2019/0655/F by the Council.
- Demonstration Restaurant could be used as a function room
- Inadequate impact studies of the proposal on water table, sewerage, odour, noise, light, wildlife especially curlews and archaeology.
- Council need to take heed to decisions quashed by the High Court.
- Council lack credibility.
- Lack of publicising the findings of McCloskey LJ so the public could benefit from reviewing this information.
- Council guilty of procedural unfairness towards Jim Allister and fellow JR applicant Mr Agnew.

## **Support**

- Economic Growth/Boost for local economy
- Project will create employment opportunities
- Sustainable development bringing visitors and their revenue to the local area
- Increase in customer spend from national and international visitors
- Generating sales for surrounding shops, restaurants and tourist attractions

- Hotel would be a fantastic advertisement for potential local and global investments
- Hotel would be great for tourism
- Great for local area as there is no major modern Hotel with swimming pool and spa facilities in Causeway Coast and Glens Borough Council
- Will provide much needed high quality accommodation
- International businesses could use facilities for conferences
- The planned demo restaurant will be a unique draw for guests and day visitors to the area – a unique offering that Taste Causeway members could benefit from.
- Provision of a top-quality venue which can actively showcase the local food and drink offer to key visitors and the domestic target market
- Hotel, spa and conferencing facilities will create further opportunities for local independent businesses, retailers, producers and service providers, particularly in the hospitality sector by creating demand for services and helping to keep tourists and visitors in the area for longer.
- This Hotel will help cater for golf tourists which are increasing in numbers since Portrush hosted the Open in 2019.
- A field is not Curlew feeding ground and would only have been used by Curlews as a seasonal location. The Curlew will not be negatively impacted from this development and there is no significant environmental effect on this SAC.

### **3.0 Assessment**

#### **Regulation 12 Screening Determination**

- 3.1 In the Planning (Environmental Impact Assessment) Regulation (Northern Ireland 2017) the development falls under Schedule 2: Category 12 Tourism and Leisure (c) “Holiday villages & hotel complexes outside urban areas and associated developments” with an applicable threshold of where the development exceeds 0.5ha.
- 3.2 The proposal was subject to a EIA screening following quashing of the decision and in light of the grounds of challenge. Consultee comments have been sought in relation to the EIA and planning

application and regard has been given to all consultee responses during the processing of the application when carrying out this EIA determination. Consultees listed in paragraph 1.4 of this Addendum excluding NIE and NITB informed this screening opinion. A screening determination was initially carried out on 18 February 2022. This was erroneous as it was undertaken using The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. Referring to the revocation, saving and transitional provisions of Regulation 48 of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, the 2015 Regulations do not apply to the proposal at this point as:

1. The applicant did not submit an environmental statement before 16 May 2017 (Regulation 48(2)(a) refers);
2. The applicant did not submit a request under Regulation 7(1)(b) of the 2015 Regulations i.e. a scoping request before 16 May 2017 (Regulation 48(2)(b) refers) and;
3. Given that the planning application has been submitted, a determination on this application can no longer be made under Part 2 of the Regulations regarding pre-application procedures. Therefore, the circumstances set out in Regulation 48(3)(a) and (b) do not apply. As Part 4 of the Regulations now applies for a screening determination, this needed to be undertaken using the 2017 Regulations.

3.3 Accordingly, a further EIA screening was carried out under Regulation 12 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 on 05 July 2023. This supersedes the earlier screening determination made on 18 February 2023. This additionally reflected amendments to the proposal including the private sewerage treatment plant and water bore holes. This determination was considered relative to the red line of the development shown on Drawing No. 01 Rev A date stamped received 24 January 2020 and all other drawings and information submitted. It was determined that the development proposal will not have a significant environmental impact either individually or cumulatively. Accordingly, the proposal is not EIA development and an Environmental Statement is not required.

3.4 For clarity, this position supersedes that set out in Paragraphs 4.8-4.11 of the Planning Committee Report regarding Environmental Impact Assessment.



## Consideration of access onto protected route

- 3.5 Paragraph 8.125 of the Planning Committee Report considered the proposal relative to the Planning Policy Statement 3 Access Movement and Parking Policy AMP 3 regarding access onto the A2 Ballyreagh Road which is a Protected Route. This policy was updated by the Department of the Environment in 2006 with the publication of Planning Policy Statement 3 (PPS 3) Access, Movement and Parking Clarification of Policy AMP 3: Access to Protected Routes. Further to this, in 2010, Annex 1 of PPS 21 Sustainable Development in the Countryside updated Policy AMP 3 of PPS 3 as the majority of greenbelts and countryside policy areas were removed on publication of this document (PPS 21). This application falls to be considered as “Other categories of Development”. The Policy allows development to access onto a protected route using an existing access in circumstances when access cannot be achieved onto an adjacent minor road. Access onto a protected route and the terms of Policy AMP 3 are raised in representations of objection.
- 3.6 Paragraph 8.125 omitted to state that the proposal does not involve access to a protected route using an existing access. Rather, access to the proposal is by means of a new access in lieu of the existing access at this location. The new access is located slightly to the west (to Portstewart side) of the existing access and is wider than the existing access. Paragraph 123 of the High Court Judgement refers to this arrangement as “relocation and enlargement of the extant access”. Policy AMP 3 does not make provision for a new access in lieu of an existing access. Accordingly, this element of the proposal does not accord with the precise terms of the policy. This matter has been raised in objection to the application. However, on considering the purpose of Policy AMP 3, the proposed access arrangements are, on balance, considered acceptable. The justification and amplification of the original iteration of Policy AMP 3 in PPS 3 Access Movement and Parking (version revised February 2005) states that *“The Department has a long established policy of restricting access onto the main roads that facilitate the efficient movement of traffic over long distances in Northern Ireland. These roads*

*contribute significantly to economic prosperity by providing efficient links between all the main towns, airports and seaports, and with the Republic of Ireland.”* By replacing an existing access with a new access, the overall objective of the Policy is met in that there is no additional access being created. In this instance, there is no viable option of access onto the site from a minor road/and that there is no nearby minor road. The proposed arrangements provide an enhanced standard relative to the existing access and are acceptable regarding Policy AMP 2 in PPS 3.

- 3.7 The consultation responses from DfI Roads advised that if the local planning authority considers the proposal to meet requirements of Annex 1- Consequential Amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking as detailed in PPS 21, conditions and informatives are recommended. The High Court Judgement at Paragraph 121 states that consideration of Policy AMP 3/ access to a protected route is a discrete issue that belongs to the territory of planning policy rather than that of road safety and related matters. Accordingly, this is a planning policy matter for the Planning Department to formulate a recommendation for consideration by the Planning Committee. For the reasons set out above, the Planning Department resolves the provision of a new access in lieu of the existing access at this location acceptable.

### **Sewerage Treatment Plant and Boreholes**

- 3.8 Consultation with NI Water took place and in its response dated 18/02/2022, it was advised the North Coast Drainage Area Plan Model has confirmed that the existing wastewater network is now operating at capacity. Accordingly, NI Water raised an objection and advised an Impact Assessment should be submitted for assessment. As a solution to this problem, a private treatment plant is proposed as part of this development. Further consultations occurred with NI Water, DAERA: Water Management Unit, Environmental Health and SES. No concerns are raised with this method of sewage disposal.
- 3.9 NI Water in their consultation response dated 22/08/2022 recommend approval of this application. Foul sewage is to discharge to a private STW facility. This will be subject to statutory approvals from NIEA. Surface water run-off is to discharge to the

watercourse in accordance with DfI Rivers Schedule 6 procedures. Water is to be supplied from a private borehole.

- 3.10 DAERA: Water Management Unit in their consultation dated 02/02/2023 state no development should take place on-site until a Consent to Discharge has been granted under the terms of the Water (NI) Order 1999. This is to ensure protection to the aquatic environment and to help the Applicant avoid incurring unnecessary expense before it can be ascertained that a feasible method of sewage disposal is available.
- 3.11 A Noise Impact Assessment (Document 29 dated December 2022) was submitted considering the noise impacts of the operation of the sewerage treatment plant as prescribed within the technical installation and operational guidelines - Kingspan Klargestar Biodisc (rotating biological contactor) at offsite noise sensitive receptors. This report advised with the addition of the sewerage waste treatment plant, impacts remain low or negligible at all noise sensitive receptors. Environmental Health advised in terms of the ambient level of noise and the specific source, it is deemed to present a very low/negligible noise impact at receptors. Environmental Health has no objections subject to conditions relating to noise.
- 3.12 An Odour Risk Assessment (Document 20 dated December 2022) was submitted to determine if there is a risk of offensive odours from the sewerage treatment works impacting sensitive receptors around the site of the proposed development. A baseline odour assessment was carried out at the site and in the surrounding area. Several sensitive receptors were identified adjacent to the site of the proposed hotel, residential buildings, areas used for recreation and as places of worship (drive-in church). The planned hotel and spa complex would itself be regarded as a sensitive receptor to any odours coming from the installed sewerage treatment works. As the site is currently undeveloped it is not a source of odours. No significant odours were identified during the baseline assessment. The correct installation and scheduled maintenance of this system will ensure that there is a very low risk of offensive odours from the sewerage treatment works impacting identified sensitive receptors in the locality. Environmental Health advised there is no adverse comment in relation to odour impacts, subject to conditions to protect amenity.

- 3.13 In terms of sewerage, the Applicant only proposes to provide a private sewage treatment plant until such times they are allowed to connect to the public system. Once allowed to do so then the related septic tanks will be decommissioned.
- 3.14 The Developer intends to use groundwater abstracted via a borehole to provide water for the development. The Agent advises it is considered feasible to use boreholes given the underlying rock strata is a proven and reliable aquifer and the report provided by Causeway Geotech (Document 27 dated 10/05/2022). DAERA: Drinking Water Inspectorate was consulted on this matter and are content with the proposal. The Applicant should adhere to the appropriate standing advice, preventing risk or contamination to the water environment and any relevant statutory permissions being obtained. If a connection to a public water supply from NIW is not possible and boreholes are to be used at the site for human consumption, the owner must register with the Drinking Water Inspectorate for addition to the private water supplies monitoring programme. Prior to addition to the monitoring programme, Drinking Water Inspectorate requires further detail on the borehole construction and water quality with results provided by a laboratory compliant with providing analysis detailed under the Private Water Supplies Regulations (Northern Ireland) 2017.
- 3.15 A Letter from Ivan Scott Associates and Causeway Geo-Tech confirms there are no registered private bore holes within the area that the proposal would impact upon. Discussions will still occur with NI Water of the possibility of connecting to the public water supply system if and when there is capacity. If the public system becomes available, then the associated boreholes can be decommissioned.
- 3.16 DFI Rivers has issued a renewed Schedule 6 consent, 11/02/2022 for the full-bore discharge of 255 litres per second to the water course on the north western boundary. The Drainage Assessment incorporates the Schedule 6 consent. DFI Rivers in their last consultation response dated 27/06/2022 advise the Applicant has renewed Schedule 6 consent for discharge therefore, DFI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DFI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

- 3.17 SES in its consultation response dated 15/05/2023 advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation. This conclusion is subject to mitigation measures of a Final Construction Environmental Management Plan to be submitted prior to work commencing and no development occurring on site until the method of sewage disposal has been agreed in writing with NIW or a Consent to Discharge has been granted under the terms of the Water (NI) Order 1999. This will ensure the project will not have an adverse effect on the integrity of any European site. This is subject to a planning condition.
- 3.18 The proposed sewerage treatment works and bore holes are located to the rear of the hotel. The sewage treatment works is approx. 163m away from No. 22 Ballygelagh Village and 152m away from No. 120 Ballyreagh Road. This meets the sewage treatment works to dwelling set off distance recommended by the manufacturer Viltra. A brochure detailing the type of treatment plant is provided. The sewerage works are contained and capped within chambers which would be emptied by the relevant service vehicles.
- 3.19 In the installation and operation guidelines, the system must be desludged periodically. Appendix C of the Odour Risk Assessment includes the sewage treatment plant specification. No. 9 refers to Desludging and Maintenance. A chart is provided advising on de-sludge periods and volumes.
- 3.20 The provision and operation of the sewage treatment plant is subject to objection. However, adequate information has been submitted to demonstrate that its inclusion in the scheme is acceptable. This position is informed by relevant consultation responses. The proposal will not adversely harm neighbouring properties in terms of noise and odour. There is no visual impact from the relevant apparatus as it is buried underground except for the relevant caps being visible. A pollution incident is unlikely given the consent to discharge process regulated by NIEA and appropriate management.

## Updated Site Selection Exercise

- 3.21 The following assessment replaces and updates paragraphs 8.16 – 8.33 of the Planning Committee Report.
- 3.22 Policy TSM3 sets out the criteria for proposals to develop a hotel on land at the periphery of a settlement. The site is located 127m east of the settlement boundary of Portstewart and is separated by one of the greens belonging to Portstewart Golf course. While it does not share a boundary with the settlement of Portstewart, it is considered to be on the periphery of Portstewart and as such this policy is most relevant.
1. *There is no suitable site within the settlement or other nearby settlement.*
  2. *There are no suitable opportunities in the locality to provide a hotel either through (a) The conversion and re-use of a suitable building or (b) The replacement of a suitable building.*
- 3.23 The applicant has undertaken a sequential site assessment for this proposal and assessed numerous sites within Portstewart and Portrush against a number of criteria including location, area, ownership, physical constraints and planning restrictions. This assessment includes points 1 and 2. This assessment has been subject to objection.
- 3.24 Prior to undertaking the sequential site assessment, the applicant calculated that the development would require land to accommodate a 4 star hotel complex (5,500sq m) together with access, parking and servicing. In their market research the applicant considered a sea view to be of critical importance to the viability of the scheme in meeting visitor expectation.
- 3.25 In assessing the sequential site assessment, case law (which relate to retail development) advises that the question is whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site. Case law requires a need for applicants to be flexible and realistic in the assessment and suitability of alternatives. It also requires flexibility from the Council in its assessment of the site selection. Therefore, only

realistic alternative sites which would be capable of accommodating the proposed development can be considered.

- 3.26 Objections to the application made comments in relation to these case law. *Tesco Stores Ltd v Dundee City Council*, 2012 made it clear that both the Local Planning Authority and the applicant must approach the sequential test with flexibility and realism. The case stated that “suitable” meant “suitable for the development proposed by the applicant”. The assessment of alternative sites in this case is consistent with this approach.
- 3.27 The second case (*Aldergate Properties Ltd v Mansfield DC*, 2016) clarified that suitable meant suitable for the development proposed and not suitable for meeting deficiencies. It required applicants to have regard to the particular circumstances of the town centre and that all sites must be thoroughly assessed regardless of preference, trading style, commercial attitudes or site preference. Again, the assessment of alternative sites is consistent with this approach.
- 3.28 This interpretation of case law when applied to this case means
- Only alternative sites which have the prospect of gaining consent for the type of development could be considered.
  - Alternative sites are sites which are capable of providing the proposed development whilst also being realistic and flexible.
- 3.29 A Planning Statement – Second Addendum dated July 2023 was submitted in support of this application which includes an updated sequential site assessment (Appendix 2). The Planning Department identified Cromore House as an opportunity which was not included for assessment in this document. The Agent then submitted information relating to Cromore House in a document dated September 2023. Each of the sites considered are listed below:

1	Dunluce Centre	10	Barrys Amusements
2	West Strand	11	Former Londonderry Arms Hotel
3	Castle Erin	12	Promenade
4	Waterworld	13	The Diamond
5	Salmon Fisheries	14	Prospect Road
6	Causeway Street	15	Strand Road
7	Former Catering College & Kelly's Complex	16	Coleraine Road
8	Glenmanus Road	17	Lissadell Avenue
9	Ballyreagh Road	18	Station Road
		19	Former Magherabuoy Hotel

3.30 This updated list now includes 3 new considerations such as Barry's Amusements, Former Londonderry Arms Hotel and the Former Magherabuoy Hotel. Information was also submitted in relation to Cromore House, Portstewart. The list of potential alternative sites is considered below:

1. Dunluce Centre, Portrush

3.31 This site is within Portrush Settlement Limit and measures 2ha. The Dunluce Centre is vacant and was formerly used as a tourist wet weather facility. Land within this area is identified as a major area of existing open space and as within the designated Metropole Local Landscape Policy Area (LLPA) in the Northern Area Plan 2016. The Council received PAN and PAD applications in relation to this site. These were for a proposed extension to existing family entertainment centre to create a Surf Centre and accommodation block comprising hotel and self-catering units. This proposal was not brought forward for full planning permission. The current floorspace of the building is less than required to accommodate this proposal and any extension would be limited due to the open space and LLPA planning constraints. Policy OS 1 of PPS 8 Open Space, Sport and Outdoor Recreation applies a presumption against the loss of existing open space. Policy PHL 03 in the Northern Area Plan 2016 regarding the Metropole LLPA states that the area should continue to be retained generally as an open space area and that incidental buildings particularly related to



tourism and recreation will be acceptable. Developing the site for a hotel of the proposed scale would be contrary to these policies by reason of the quantum of development resulting in loss of open space and by the open area being lost. The scale of the built development required would not be incidental. Objection to the application has raised that the site, owned by the Council, is available for sale with additional land. However, the open space and LLPA constraints are material considerations given determining weight relative to the availability of the site. This site is therefore discounted.

## 2. West Strand, Portrush

- 3.32 This site is located within Portrush Settlement limit and measures 2.5ha. It is an informal recreation space and is designated as an area of major existing open space and as West Bay LLPA. This area is not considered suitable for hotel development given the planning constraints as open space nor is it sufficient in shape or scale to meet the proposal's requirements.

## 3. Castle Erin, Portrush

- 3.33 This site is located within Portrush Settlement Limit between the Promenade and the railway line. It falls within part of West Bay LLPA and is bounded to the south by existing open space. The site is the former Castle Erin Hotel and measures 1.3ha. The site is not available for purchase. The site is currently vacant and planning permission has been approved for Development of 10 no. semi-detached houses and 11 no. apartments with associated landscaping and site works under reference LA01/2019/0459/F (Planning Appeal – 2019/A0071). This site is operationally constrained regarding access/parking with potential neighbouring noise concerns due to the amusements and railway line. The site is discounted considering all of these factors.

## 4. WaterWorld, Portrush

- 3.34 The site is located within Portrush Settlement Limit at the Harbour and is accessed via a steeped gradient on Main Street. The site measures 0.3ha. The building is currently vacant and the future of the building is uncertain. The site is owned by the Council and is

not being marketed for purchase. The site area is too small to accommodate this Hotel and the existing car parking is shared and would not be sufficient to meet the demands of a hotel. The access road is also considered sub-standard. This site is unsuitable due to its size and the constrained nature of the development surrounding it at Portrush harbour side.

#### 5. The Salmon Fisheries, Portrush

- 3.35 The site is located outside Portrush Settlement Boundary in Ramore Head LLPA. It forms part of the old salmon fisheries which is now partly used as holiday apartments and general open space. The site measures 0.7ha and is not available for purchase. The existing open space of this area and designations renders this unsuitable for the proposed hotel development.

#### 6. Causeway Street, Portrush

- 3.36 This site is located within Portrush Settlement Limit. Part A refers to the built development at the front. This area comprises an apartment development which is currently occupied. Part B is used for Portrush Football Club training grounds so this is an area of open space which is not suitable for re-development purposes. Part A and B is discounted for Hotel development.

#### 7. Former Catering College (A), Skerries Holiday Park (B) and Kelly's Complex (C), Portrush

- 3.37 Site A falls within Portrush Settlement Limit and measures 3.2ha. Planning permission has been granted for Mill Strand Integrated Primary School and Nursery under reference LA01/2020/1349/F and is currently being constructed. Another permission granted on this section of land is for a housing development under reference LA01/2020/0317/O. A reserved matters planning application LA01/2023/0607/RM has been received for 43 dwellings which is currently under consideration. Site A is in the process of being developed and is therefore discounted.
- 3.38 Sites B and C fall outside Portrush Settlement Limit and measures 3.25ha and 2ha respectively. These sites are currently operated by Kelly's and includes static caravans (Golf Links Holiday Home

Park). These sites are not available for purchase as an existing business is currently operating and are therefore discounted for this proposal.

#### 8. Glenmanus Road, Portrush

- 3.39 This site is located outside Portrush Settlement Limit and measures 4.2ha. The site is reserved for the continuation of Hilltop Holiday Park. Part of the land shown has been developed for more static caravans and touring pitches. This site is of equal standing to the application site as it is outside a settlement limit. This site is not available for purchase and is not large enough to accommodate this proposal.

#### 9. 48-50 Ballyreagh Road, Portrush

- 3.40 This site falls within Portrush Settlement Limit and measures 0.5ha. It is known as Inn on the Coast which is a 3 star hotel with bar and restaurant facilities which is currently operating. This site has been subject to previous approvals for residential development. Land east of this site has been built out as housing and land west of the site is a field which is located outside the settlement limit. The Inn on the Coast is separated from this adjacent field by an access which provides a right of way to agricultural lands so it is not one complete parcel of land. The site as presented by the Agent in their sequential site selection exercise is not large enough to accommodate a hotel of this nature. Objection to the application has raised the suitability of the field to the immediate west and access benefits by using the existing minor adopted road which in turn access onto the Ballyreagh Road protected route. Other benefits of the site including sea views and proximity to the NW 200 pits are identified in the objection. This field is owned by the Council, a further point raised in objection. Notwithstanding the site being at the edge of Portrush settlement development limit and having sequential benefits, again a further point raised in objection, the site is not available for purchase. If the site were to have been available, reappraisal would have been required. Accordingly, based on prevailing circumstances, it is discounted.

#### 10. Barry's Amusements, Portrush

3.41 This site is within Portrush Town Centre and measures 0.8ha. The site was sold and now operates as Curry's Amusements and is operating for leisure purposes. It is not available for purchase. The site is constrained due to its long-elongated shape set between the coast and railway line. Redevelopment would require consideration of visual appearance and scale due to the close proximity to the coast and would have noise/amenity issues in relation to the neighbouring railway line. This site is not available or suitable for a hotel of this scale, or nature of the proposal.

#### 11. Former Londonderry Arms Hotel, Portrush

3.42 This site is located within Portrush Town Centre and measures 0.8ha with no parking facilities. It has been acquired by Andras Hotels and is not available for purchase. This building is partly demolished with part of the Listed element retained and is being developed in accordance with the permission granted under LA01/2017/0689/F for a 3 to 5 storey, 83 bedroom Hotel with a restaurant, café/bar. The site due to its location and small size would not have been capable of providing a hotel of the scale, or nature of this proposal.

#### 12. 68-69 The Promenade, Portstewart

3.43 This site is located in Portstewart Town Centre between the Promenade and Church Street. The site measures 0.1ha and was formerly Montague Arms Hotel but it has been redeveloped as retail and residential units approved under reference LA01/2015/0373/F. This site is not available and is discounted.

#### 13. 1-7 The Diamond, Portstewart

3.44 This site is within Portstewart Town Centre and measures 0.2ha. The site is currently operating as Me and Mrs Jones boutique hotel (20 bedroom). This site is not available for purchase and is not large enough to accommodate this proposal.

#### 14. Prospect Road, Portstewart

3.45 This site is within Portstewart settlement limit and measures 2.57ha. It has been zoned for housing (PTH 28/PTH 49) under

NAP 2016. The land north of Nursery Avenue has planning permission granted for a housing development (21 units) under reference LA01/2017/1609/F which has been constructed with the dwellings occupied. The other land contained within this site remains undeveloped. This site is not available for purchase. The site lacks commercial frontage and access and is not large enough to accommodate this proposal.

#### 15. Strand Road, Portstewart

- 3.46 This site is located within Portstewart Settlement Limit next to the roundabout linking Strand Road and Burnside Road. The site measures 0.43ha. The site is in a dilapidated state. The land is zoned for housing (PTH 30) in NAP 2016. The site is restricted in that it is bounded on three sides by residential properties. The site is not available for purchase and is not large enough to accommodate this proposal.

#### 16. Coleraine Road, Portstewart

- 3.47 Land is displayed as zones A and B. Site A is outside Portstewart Settlement limit and measures 0.5ha. Site B is located within Portstewart Settlement Limit and measures 3.37ha. Site A has a dwelling built on the site and a residential development has been constructed at Site B. Both these sites have been developed and are unavailable and therefore discounted.

#### 17. Lissadell Avenue, Portstewart

- 3.48 This site is within Portstewart Settlement Limit and measures 2.7ha. This site was granted planning permission under reference LA01/2015/1043/F for a housing development and other amendments to this permission. These dwellings have now been constructed. This site is not available and is discounted.

#### 18. Station Road, Portstewart

- 3.49 This site is located within Portstewart Settlement Limit and measures 5ha. The northern portion of land in this site was granted planning permission under reference LA01/2019/0944/F for a residential development of 19 units. These dwellings have

been constructed. The remaining land is in agricultural use. This site is discounted as it is not available for purchase and the remaining land is too small to accommodate this proposal.

#### 19. Former Magherabuoy House Hotel, Portrush

- 3.50 This site is located within Portrush Settlement Limit and measures 1.2ha. It was formerly operated as a hotel with a total of 55 bedrooms and it is now proposed to accommodate asylum seekers. It is under private ownership and is not available for purchase. This site is not of a scale that could accommodate this development.

#### 20. Cromore House, Portstewart

- 3.51 This site is located outside Portstewart Settlement Limit. Initial omission of consideration of this site was raised in objection. It is not available for purchase and the owner has expressed the intention of returning it to a residential property under application LA01/2021/1131/F for “bubble domes”. Cromore House is limited to largely the property itself and immediate surrounds. It does not include the surrounding fields. The building has an approximate footprint of 800m<sup>2</sup> which is approximately 19% of the proposed Hotel. The total landholding extends to approximately 0.8 hectares compared to 5.38 hectares at the application site. Even though there are multiple private landholdings, none of which are for sale, they still only equate to approximately 3.8 hectares or c. 70% of the subject site. This site is not suitable and cannot accommodate the proposed hotel development.
- 3.52 Objectors have also cited land at opposite Strand Avenue 90m north of 106 Dunluce Road as an alternative site. An application (LA01/2017/1570/F) was submitted to Council for consideration and subsequently withdrawn. The description of the development was for a “Proposed Luxury Hotel Resort incorporating conference facilities and spa, guest suites, apartments and villas, associated access, car parking, landscaping and ancillary development”. The land is outside the settlement limit of Portrush and as such would also be subject to a sequential test for any future development. It is less suitable as it is further from any settlement than the application site.

- 3.53 Having reviewed all alternative sites for new development or re-use of existing buildings presented by the agent and objectors, it is determined that none of these sites are readily available or suitable because they either not available for purchase, are too small in size, are situated within protected zones, have an established business operated from the site, are located outside the settlement limit, have been allocated for housing, or they have been developed for residential purposes.
- 3.54 Consideration has also occurred of other larger areas of land available within settlement limits. There does not appear to be a suitable, ready and available site. Much of the larger areas of open land, such as Parker Avenue in Portrush or The Warren in Portstewart are protected under planning policy as areas of open space.
- 3.55 From the sequential site assessment and considering other larger potential areas of land, no alternative sites to accommodate the scale and nature of the proposal have been identified within the settlement or nearby settlement (Portrush or Portstewart). The sequential site assessment also considered sites in the locality which would involve conversion, re-use and replacement. From assessment and local knowledge, it is considered that there are no suitable opportunity sites involving the conversion and re-use or replacement of suitable buildings in the locality. It is concluded there are no suitable sites within settlement limits to accommodate a hotel development of this nature so the proposal complies with this part of the policy.

### **Information on Delivery of Project**

- 3.56 The original relevant information for this Hotel development and consideration is found in paragraphs 8.38 – 8.42 of the Planning Committee Report.
- 3.57 A ‘firm’ proposal is explored in the Justification and Amplification, paragraph 7.14 of Policy TSM 3. Policy requires that an application of this nature should be accompanied with the following information:

- Sufficient evidence to indicate how firm or realistic the particular proposal is and what sources of finance are available to sustain the project.
- 3.58 A Hotel Demand and Need Assessment (17 October 2016) was lodged as part of the original submission. The Agent has advised the core focus and conclusions remain the same in 2023.
- 3.59 Since the decision was quashed in 2019, further information relating to the viability/realistic nature of the proposal was provided in May and June 2020. On request by the Planning Department further updated information was provided in June and July 2023. Following receipt of this information in July 2023 it became apparent that some matters such as the changed hotel offer in the local area and permissions granted for new hotels had been overlooked. Further information was then provided in September 2023 addressing these matters and was considered acceptable. The information submitted to satisfy this element of Policy TSM 3 has been subject to objection.
- 3.60 The focus on this Hotel is in meeting the identified shortfall in large scale provision for the towns of Portstewart/Portrush. Locationally, it seeks to cater for those visiting the towns and major sporting events such as the North West 200 and Royal Portrush and Portstewart Golf Clubs. The Agent states “Newcastle has the Slieve Donard, Enniskillen has Lough Erne, Ballymena has the Galgorm Manor while Portrush/Portstewart, one of the most visited parts in the whole of Ireland, has no comparable offering.”
- 3.61 An overview of hotels in the area (a total of 8) has been provided in the form of a table. Key hotel components (detailed in paragraph 3.63) have been compared with that of the proposal. This overview includes recent hotel developments including the Londonderry Hotel redevelopment, Portrush and the Dunluce Lodge Hotel, Portrush (both under construction). Objection refers to these new hotels as increasing high-end supply. Review of the overview shows that no hotel matches the large scale hotel provision requirements of this proposal. Some small scale hotels in the area have incrementally added to their bedspace or are seeking to do so. A mix of hotel provision in the area is to be supported.



- 3.62 The Agent advises what is needed and remains unmet is the need for a large scale hotel with 100+ bedrooms together with leisure facilities that the modern customer demands in Portrush/Portstewart. This demand has been clearly set out in the needs assessment and the Council's/Central Government's own Hotel Study.
- 3.63 From the hotel review table there are no hotels with 100+ bedrooms, swimming pool/spa, nor large conference/wedding facilities or adequate parking/bus spaces. Again, none provide integrated (but external) lodge accommodation which continues to grow in popularity catering for larger family/groups coming to the coast for holidays. The constrained location and lack of coach parking of the existing hotels means that they do not cater easily for the larger tourism operators and hence why many do not stay within the area for overnight accommodation. The small existing hotels also do not hold adequate conference facilities to address the needs of events that normally occur in the larger hotels.
- 3.64 In consideration of this information provided and the hotel comparison table, this proposal will meet an identified need for a hotel of this nature so the proposal should be viable. Objection to the application comments that statistics suggest that current overall supply is enough to satisfy overall demand. However, demand could increase because of the specific tourism offering the proposal would provide. While it is acknowledged that there has been recent upgrades and new developments in the vicinity, a further point raised in objection, to increase high-end supply, e.g. Elephant Rock Hotel, Portrush and Dunluce Lodge, Portrush (among others), this does not demonstrate that demand is met. As set out above, the hotel review table underlines how the proposal will provide a specific offering, distinguishable from that available currently.
- 3.65 Correspondence was submitted in relation to this application from:
- WH Stephens (Project Management – Construction Consultancy) dated 20<sup>th</sup> June 2023
  - ASM Accountants dated 26<sup>th</sup> June 2023
  - Interstate Hotels / Aimbridge (Hospitality Company – Hotel Operator) dated 3<sup>rd</sup> July 2023

- Aimbridge (Hospitality Company – Hotel Operator) dated 21<sup>st</sup> September 2023

3.66 WH Stephens remain the Project Managers and Cost Consultants for this Hotel project. The developer has re-engaged with WH Stephens in relation to cost increases and inflation. The project will be in a position to progress to construction stage once planning has been granted.

3.67 ASM Accountants letter expects 2025 to deliver strong growth in visitor numbers for the Causeway Coast region with the added prospect that The Open can finally deliver the tourism bounty in the following years. There is a need for a hotel of this scale, quality and facilities and a project of this nature can be commercially viable. The sources of finance available to the project include private equity, primary bank finance and 'mezzanine' debt. Each source of funding will carry related conditions which will be assessed by the developer and its advisors when drawing final conclusions as to the most appropriate funding structure for the scheme. Unlike previously, grant funding is not identified as a source of finance. Notwithstanding specific acknowledged constraints cited in objection to the application, specifically an increase in energy costs, reduction in disposable income and an increase in non-energy operation costs, the recent information from ASM Accountants states that the project of this nature can be viable. The closure of operating hotels in the locality, a further issue raised in objection, specifically, the York Hotel, Portstewart and the Magheraboy House Hotel in Portrush, does not demonstrate that the proposal is not viable given their own specific circumstances. Submission of business plans is not required to demonstrate compliance with this requirement of Policy TSM 3 of PPS 16 Tourism. While it is acknowledged that interest rates i.e. the cost of borrowing has increased substantially, again a point raised in objection, the up to date submission from ASM Accountants states that a project of this nature can be commercially viable. Given the position of ASM Accountants, it is considered that detailed confirmation from respective funders is not required. The financial standing of the applicant, a limited company, has been raised in objection to the application. Detailed scrutiny of its net assets and ability to secure funding (beyond the extent of the information provided) is not required by Policy TSM 3 of PPS 16 Tourism. Regarding the cost of the project, the Agent for the application

advised on 08 November 2023, that it was upwards of £15 million. The exact cost projections of the project, a further point of objection, is not required to be made known to satisfy the requirements of Policy TSM 3 of PPS 16 Tourism.

- 3.68 Interstate United Kingdom Management Ltd advise that they remain committed to the Hotel project in Portstewart. It is acknowledged there has been hotel developments in the area. However, nothing of the same scale or offering as this hotel & spa so the gap in the market remains. Aimbridge advise they are working with the developer offering technical and pre-opening services to ensure the project is efficient from an operational point of view which will aid operation of the hotel when open. Trading projections for a period of 5 years were prepared and it is stated that the project is both commercially viable and sustainable.
- 3.69 On 28 July 2017 Don Hotels notified the Council that it had contracted to purchase the development site. On 22 January 2018, the Developer advised the Council that the proposal was a joint venture between C & V Developments (the applicant) and Don Hotels Limited. Objection to the application has queried the role of Don Hotels in the project. Issues cite dormancy of the limited company, its financial status and lack of employees. At an office meeting with the Applicant and their representatives on 08 September 2023, the Planning Department enquired about the role of Don Hotels in the project. A representative of the Applicant advised the Planning Department should not enquire into the role of Don Hotels as the hotel is to be run by Interstate. As set out above, Interstate advise they remain committed to the project.
- 3.70 All of the above information is considered sufficient to demonstrate that the proposal is firm and realistic and will be a sustainable project. It has been demonstrated there is a firm intent to deliver this development. This requirement of Policy TSM 3 of PPS 16 Tourism is considered met.

### **Contact with DFI on Application Processing**

- 3.71 Mr Jim Allister MLA, an objector to the application, requested the Department for Infrastructure (the Department) to “call in” the application under Section 29 of the Planning Act (Northern Ireland) 2011 on 27 March 2017. The Department responded on 19 April

2017 to advise that it would not be appropriate for the Department to “call in” the application and the Council was best placed to determine it.

- 3.72 The Council requested the Department to “call in” the application on 11 October 2017. After providing an interim response on 26 October 2017, the Department replied on 29 November 2017 to state the application was not being called in.
- 3.73 The Council provided Mr Jim Allister MLA with information on the date of the meeting of the Planning Committee on 24 January 2018. Time has now elapsed to allow Mr Jim Allister MLA to consider this information and, if he resolved to do so, make informed representations to the Department regarding “calling in” the application. Post consideration by the Planning Committee on 24 January 2018, Mr Jim Allister MLA made a request to the Department to “call in” the application. On 02 March 2018 the Department advised the Council that there were no issues that would merit the application being referred to it under the terms of Section 29 of the Planning Act (Northern Ireland) 2011. The response added that the Council may proceed to determine the application. Further to this, the application issued as an approval on 05 March 2018.
- 3.74 After the High Court judgement quashing the decision on 09 August 2019, on 11 November 2019 the Department issued a Direction to the Council under Article 17 of the Planning (General Development Procedures) Order 2015. This requires the Council to notify the Department when the Council reach a recommendation on this application before a final decision is taken. The covering letter states that the Council are required to notify the Department if and when, a recommendation is made to the Planning Committee and before a final decision is taken on the application.
- 3.75 On 09 December 2021 the Council contacted DfI to ascertain whether the Department should determine the application given the provisions of Regulation 4 of the Planning General Regulations (Northern Ireland) 2015. This query related to the circumstances where the application is on land owned by the Council where the Council does not intend to develop the land itself or jointly with any

other person. The Department responded on 10 March 2022 to advise that as the applicant is not the Council, Regulation 4 does not apply. The response additionally referred to the Direction issued on 11 November 2019 remaining in place.

### **Easement/ Access over The Pits Area and Use of North Portion of Site for Car Park**

- 3.76 The application site is dependent on access to the Ballyreagh Road over the Pits area which is owned by the Council. To achieve such an access, the Council granted an easement on 17 June 2017. In addition, part of the car park serving the proposal (northern portion of car park) is located on land owned by the Council and currently leased to Coleraine and District Motor Club Ltd. The Planning Application Certificate accompanying the application shows that notice was most recently served on the Council as part owner of the site under Section 42 of the Planning Act (Northern Ireland) 2011 on 13 July 2022. Notice was most recently served on Coleraine and District Motor Club Ltd. as a leaseholder on the same date. In addition, notice was most recently served on DfI Roads as part owner of the site, co-owners and other leaseholders on the same date.
- 3.77 Service of such notice is a relevant material consideration in assessment of the application. A proposed condition states that no development shall commence until vehicular access, including visibility splays is provided in accordance with specified drawings. A further proposed condition sets out that the development shall not become operational until the proposed right turn lane is provided in accordance with specified drawings. A further proposed condition requires that the development shall not become operational until the construction and marking of all hard surface areas (which includes car parking). The same proposed condition requires that no part of these area shall be used for any purpose at any time other than for the parking and movement of vehicles of customers and staff of the approved development. Therefore, imposition of these proposed conditions necessitates use of third party land as an integral part of the development. This issue, regarding current lack of control of the whole site, was argued in objection to make the site non-viable. However, it is up to the developer to satisfy themselves that they control the

necessary land to undertake the development. Therefore, this is not an impediment to the grant of planning permission which allows five years for the commencement of development, a reasonable opportunity to assemble control of necessary land. Accordingly, definitive control, a term used in objection to the application, is not required at the planning application stage. Regarding the northern portion of the car park, on 05 June 2021 Mervyn Whyte of the Coleraine and District Motor Club Ltd. confirmed to the Planning Department that they have taken the opportunity to review the proposals and accompanying plans and are satisfied that the requirement for car parking, service access and HGV turning provision within the paddock can be provided on a permanent basis throughout the year, including race week. This clarifies that the NW 200 event can be managed to operate, notwithstanding the loss of part of the pits or “paddock” area to provide the northern portion of the car park. At present, there is no lease or conveyance between the Council and the developer regarding this area.

- 3.78 The circumstances of the granting of the easement is principally a matter for the land and property business of the Council. The same position applies to any future lease or conveyance regarding the northern portion of the car park. While this is a relevant material consideration to the assessment of the application, it has little weight. Of greater weight as a material consideration, is that the necessary notices were served on other parties/ landowners on the extent of the application site, as referred to in Paragraph 3.76 above.

### **NI Audit Office – Extraordinary Audit**

- 3.79 The NI Audit Office undertook an Extraordinary Audit of the Council referring to an easement granted by the Council for the purposes of access to the site from Ballyreagh Road. This matter has been raised in objection to the application and is identified as a relevant consideration. The Audit commented that despite the speediness of granting the easement, the associated planning application i.e. this application, which included the granting of the easement was ultimately challenged through the courts in a Judicial Review in 2019. The Audit commented that significant

staff time has been incurred in defence of this legal challenge as well as external legal costs. As the Audit refers principally to land and property matters of the Council, it is of limited relevance to assessment of the planning application. Accordingly, it is a material consideration that is given little weight.

### **Site Visit**

- 3.80 A site visit by the Planning Committee took place on 28 June 2017. The High Court judgement at Paragraph 92 comments that site visits by Planning Committee members promote transparency and accountability, two of the values underlying the recent major reforms in Northern Ireland transferring planning decision making responsibilities to democratically elected councillors. The composition of the Planning Committee has changed substantially since the last site visit was undertaken. The Planning Committee may wish to consider whether a further site visit is appropriate.

### **Causeway Coast & Glens Tourism and Destination Management Strategy 2015- 2020**

- 3.81 The Causeway Coast & Glens Tourism and Destination Management Strategy 2015- 2020 Executive Summary identifies key product gaps in the Borough. One of these is 4 & 5 star hotel accommodation. While this is not a planning policy document, it is a relevant material consideration that is given moderate weight. The proposal would make a substantive contribution in addressing this key product gap by providing a 4 star hotel with 119 bedrooms and associated facilities within the Borough.

### **Other Matters Raised in Representations**

#### Traffic Impact

- 3.82 This issue is considered in paragraphs 8.124 – 8.130 of the Planning Committee Report.
- 3.83 DfI Roads advises that the capacity of A2 Ballyreagh Road and the proposed access junction is sufficient to accommodate the traffic generated by this proposal. DfI Roads gave further consideration

following the submission of objections relating to traffic concerns including the submission of TRIC data provided by M.R.A. Partnership. DfI Roads subsequently advised that it considers the capacity of the proposed access junction on A2 Ballyreagh Road and the local road network to be sufficient to accommodate the traffic generated by the proposed development. (11 March 2021 and 10 May 2021)

- 3.84 DfI Roads advise that the proposed access has been designed in accordance with the relevant standards and raises no objection as the competent authority on this matter.
- 3.85 DfI Roads also advises that the road improvement scheme associated with the proposed development does not meet the threshold for a safety audit to be required.
- 3.86 DfI Roads in its consultation response dated 28 September 2021 express no objections to this application subject to planning conditions and informatives. Accordingly, the Planning Department is content with the proposal regarding traffic impact, access and road safety.

#### Archaeological Issues

- 3.87 Archaeology consideration is found in paragraphs 8.120 – 8.122 of the Planning Committee Report.
- 3.88 In HED (Historic Monuments) consultation response, 15 March 2021, specific clarification was sought regarding the representations and objections received to date on archaeological matters. One specific matter relating to topsoil on the site being disturbed and stored elsewhere was queried. As the topsoil had not been reinstated, the Programme of Works, at that time, did not include mitigation measures to assess any remaining spoil for archaeological material. It was recommended that an addendum should be made to the Programme of Works to include this.
- 3.89 An Addendum to the Archaeological Programme of Works was then received 19 April 2021 and consultation with HED (Historic Monuments) was carried out. HED (Historic Monuments) then considered this matter and responded on 05 May 2021 advising that the Addendum to the Archaeological Programme of Works (19



April 2021) now includes provision for archaeological mitigation of any remaining spoil and raised no further concern in this regard.

- 3.90 HED (Historic Monuments) has been consulted as the competent authority on archaeological matters and it is content that the proposal satisfies the requirements of PPS 6 subject to conditions regarding the Programme of Works. The Planning Department is content with this position.

#### Inaccurate Plans

- 3.91 Concern was raised regarding the current ground levels of the site and that these have not been accurately reflected within the submitted plans. However, it is the proposed site layout plan (Drawing No. 04G) which is the critical plan as it confirms the proposed ground levels. Should the development proposal be constructed, then these are the ground levels which will need to be implemented.

#### Impact upon amenity of nearby residents

- 3.92 These issues were considered under paragraphs 8.63 – 8.78 and 8.137 (Consideration of objections) of the Planning Committee Report.

#### Urban Sprawl

- 3.93 This was considered under paragraphs 8.112 – 8.114 of the Planning Committee Report.

#### Impact upon visual amenity and local character

- 3.94 These issues were considered under paragraphs 8.92 – 8.114 of the Planning Committee Report.

#### Impact upon natural heritage

3.95 These matters were considered under paragraphs 8.115 – 8.117 and 8.137 (Consideration of objections) of the Planning Committee Report.

#### Tourism Planning Policy

3.96 This application is assessed under Policy TSM 3 and not Policy TSM 4 of PPS 16. Paragraph 150 of the High Court Judgement states that the development proposal in this case plainly entails a new build hotel in the countryside. It continues, it falls naturally and irresistibly within this terminology, with a resulting magnetic nexus to Policy TSM 3. Therefore, Policy TSM 3 is the relevant policy to assess this proposal.

#### General Points

- *Lack of engagement with Agent/Applicant and Ballygelagh Village Owners Association.*

3.97 As this is a major application, prior to submission, the proposal was subject to a Proposal of Application Notification (PAN) which requires a Pre-Application Community Consultation event. This event was held on 18 June 2016. Furthermore, the application was advertised in accordance with the legislative requirements.

- *Paragraph 4.4 of the applicant's "Design and Access Statement" claims there were scoping meetings with Ballygelagh Village Residents before progression of the application – this is incorrect.*

3.98 Having contacted the Applicant's agent regarding this point, this was a drafting error in their document. Notwithstanding, neighbouring properties were invited to the pre-application community consultation event. There was no meeting prior to this. That said, there is no legal requirement to engage with surrounding residents outside of the PAN process. Relevant legislative requirements were met in this case.

- *Council indifferent to the rights and interests of Ballygelagh Village residents*

3.99 The Council has considered and assessed the application against prevailing planning policy, while having regard to all

representations received and the High Court Judgement delivered 13 September 2019. Issues including amenity and outlook from properties at Ballygelagh Village are considered.

- *Principle of development unacceptable*

3.100 The principle of development has been considered in the Planning Committee Report and this Addendum. The principle of development is acceptable.

- *Evaluation of all points made in earlier letters.*

3.101 All matters raised, currently or previously, by those making representations, have been considered.

- *The 'new red line' being accepted under this application is wrong in law and principle. The increase in red line should not have been allowed as an amendment to this application.*

3.102 It is a matter to consider and determine if any amendment is so substantial that a new application is required. In considering the amendment to this application, it solely involves amending the red line to accommodate a change in visibility splays. The proposal relates to the same site, description, and development, with all development located on the same position within the original and amended red lines. This amendment does not result in the development having any different environmental or visual impact than initially proposed. The land required for sight splays is in the ownership of a third party and notice was served on that party at the time of the original application. On revising the red line for splays only, further notice was served on the landowner (most recently on 13 July 2022). A new planning application certificate was provided, and the application was re-advertised. Given the foregoing, it is considered this change is not so substantial as to require a new planning application.

- *Judicial review confirmed there was neither a need for this hotel or a right to build it.*

3.103 While the Judicial Review found deficiencies in the processing of the planning application, it neither confirms there is no need, nor

no right to build it. It requires the application to be considered afresh.

- *Wish for the Department of Infrastructure to call in this application under Section 29 of the Planning Act (NI) 2011 – have no confidence in the Council given determinations on this application have been quashed.*

3.104 This is a matter for the Department for Infrastructure (Dfi). That said, Dfi issued a Direction to the Council regarding the application which came into operation on 11 November 2019. Council is processing the application in accordance with this Direction.

- *Proposal not compatible with the surrounding land use*

3.105 This matter is considered within the Planning Committee Report and this Addendum.

- *Loss of unique backdrop to the NW200*

3.106 The backdrop of the NW200, agricultural fields and surrounding development is not a material consideration given significant weight. The NW200 event can still operate notwithstanding a change to its backdrop.

- *Potential for anti-social behaviour in the vicinity of the Pitts*

3.107 Anti-Social behaviour is primarily a matter for the PSNI and a matter that is given limited weight in the context or consideration of this planning application.

- *Site assembly issues*

3.108 Planning permission does not confer title. It is the responsibility of the developer/applicant to ensure that they control all the lands necessary to carry out the proposed development.

- *NW200 is not a tourist amenity, but a transient event as detailed under LA01/2019/0655/F by the Council.*

3.109 The proposal has been submitted as a hotel with reference to the NW200 having regard to the site specific location next to the pits

and start finish line of the NW200. Consideration and assessment of this element is set out in Paragraphs 8.133 - 8.136.

LA01/2019/0655/F for 3 self-catering apartments at 75 Ballyreagh Road is a different proposal in a different location and is not comparable to this application.

- *Demonstration Restaurant could be used as a function room.*

3.110 The demonstration restaurant is subject to a condition which limits this to Class D1, Community and Cultural Uses of the Schedule of the Planning (Use Classes) Order (Northern Ireland) 2015 and for no other purpose. As a function room does not fall within this use class, the building could not be used for this purpose and would require a planning application to be used as such.

- *Inadequate impact studies of the proposal on water table, sewerage, odour, noise, light, wildlife especially curlews and archaeology.*

3.111 These matters have been considered within the Planning Committee Report and this Addendum and found to be acceptable.

- *Council need to take heed to decisions quashed by the High Court.*

3.112 In accordance with the Judgement delivered 13 September 2019 by McCloskey LJ, delivering the judgment of the court, quashing the previous decision to approve planning permission on 05 March 2018, the Council is retaking the planning decision as required by this Judgement.

- *Lack of publicising the findings of McCloskey LJ so the public could benefit from reviewing this information.*

3.113 Publication of Judicial decisions and directions is the responsibility of Judiciary NI. Publication of the findings were made available on the Judiciary NI website in September 2019 where it was available to view at <https://www.judiciaryni.uk/judicial-decisions/2019-niqb-79>

- *Council lack credibility.*

3.114 Having regard to Judgement Allister (James Hugh) and Robert Edwin Agnew's Application v Causeway Coast and Glens Borough Council, in the Judge's Preamble at Point II on Pg.5, it reads as follows:

*Preamble*

*II As the case progressed, three themes (among others) emerged with some prominence. First, the increasing prejudice to the developer; second, the unfairness to Council officers and officials resulting from the wave of delays in a context of trenchant attacks on their integrity and professionalism; third, the damage to the public interest caused by the continuing uncertainty and delayed finality. All of the foregoing is reality: the court passes no judgment on the whys or hows thereof."*

3.115 Paragraph 189 on Pg. 91 of this Judgement then goes on to read as follows:

*"[189] Having done so [considered the interface of Planning Officials with the Planning Committee], while certain imperfections, questions and queries have been exposed and fully ventilated I am left with no misgivings about the purity of the conduct and motives of the planning officials and the PC members. The Applicants have failed to establish to the requisite degree that the briefing of the PC and /or its majority decision were tainted in the manner asserted. I am satisfied that the planning officials and PC members discharged their duties conscientiously and in good faith and without any conscious or subconscious alien motive or predisposition in favour of the developer. This ground of challenge fails accordingly."*

- *Council guilty of procedural unfairness towards Jim Allister and fellow JR applicant Mr Agnew.*

3.116 Regarding procedural unfairness, Paragraph 80 of the Judgement stated that the lately procedural documents to Mr Allister, shortly before the PC Meeting on 24.01.2018, deprived him of the opportunity of deploying the full range of materials and arguments in support of a request to DfI that it exercise its "call in" statutory power. Further observations were made regarding the absence of information regarding "call in" of the application and the easement/access over the pits area to the hotel site. These

principal matters together with denial of deferring consideration of the application, led the Judgement to a diagnosis of procedural unfairness being irresistible at Paragraph 82. These matters are addressed in this Addendum.

## **Other Matters – Selection of Conditions**

### DFI Roads Consultation Response dated 28 September 2021

- 3.117 This consultation response detailed several conditions to be included on any decision notice should planning permission be granted. This included a single condition regarding the matters of the vehicular access, and right turn lane. Having regard to the six tests of a planning condition as set out in Paragraph 5.65 of the SPPS, it is considered that these two issues require their own separate condition. Therefore, it is recommended that a condition is imposed to ensure no development commences before the vehicular access is provided, and a second condition requiring the development does not become operational until the right turn lane is provided.

### NI Water Consultation Response dated 22 August 2022

- 3.118 This consultation response detailed several conditions to be placed on the decision notice. As conditions 1 and 2 refer to a formal water/sewer connection they are not considered relevant to the current proposal given that a borehole is proposed for water and a sewage treatment plant for sewage. Therefore, these conditions are not proposed in this Addendum.

## **4.0 Recommendation**

- 4.1 That the Committee note the contents of this Addendum and agree with the recommendation to approve full planning permission subject to the conditions set out in Section 5.0 of this Addendum.

## 5.0 Conditions

### **The following conditions supersede and replace conditions 1-34 in Section 10 of the Planning Committee Report.**

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 exhibition space and tourist retail offer hereby approved, shown in the area shaded orange on Drawing No. 04G date stamped received 10<sup>th</sup> August 2022 shall be restricted to a maximum floor space of 150sq metres measured internally.

Reason: To enable the council to control the nature, range and scale of retailing to be carried out at this location so as not to prejudice the continuing vitality and viability of existing town centres.

3. The office use and meeting room hereby approved shown in the area shaded orange on Drawing No. 04G date stamped received 10<sup>th</sup> August 2022 shall be restricted to a maximum floor space of 90sq metres measured internally

Reason: To control the size and scale of this use due to its location outside the settlement limit.

4. The self-catering accommodation hereby approved, Type A and Type B and coloured green on Drawing No. 04G date stamped received 10<sup>th</sup> August 2022 shall be used only for holiday letting accommodation only and shall not be used for permanent accommodation.

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



5. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no building, structure, hard surface or enclosure incidental to the enjoyment of the holiday cottages hereby approved shall be erected within the site as indicated by the redline on Drawing No. 01 REV A date stamp received 24<sup>th</sup> January 2020.

Reason: To preserve the visual amenity of the countryside.

6. The self-catering accommodation hereby approved, shall not be occupied until the hotel building is complete and fully operational.

Reason: To ensure the delivery of the hotel building which is the primary use of the site.

7. The demonstration restaurant hereby approved, shall not become operational until the hotel building is complete and fully operational.

Reason: To ensure the delivery of the hotel building which is the primary use of the site.

8. The demonstration restaurant hereby approved is limited to Class D1, Community and Cultural Uses of the Schedule of the Planning (Use Classes) Order (Northern Ireland) 2015 and for no other purpose.

Reason: In the interests of neighbouring amenity.

9. All hard and soft landscaping shall be carried out in accordance with Drawing No. 38C dated 24<sup>th</sup> January 2020 and 39B dated 11<sup>th</sup> May 2017 and the appropriate British Standard or other recognised codes of practice. The works shall be carried out prior to the occupation of any part of the development hereby approved.

Reason: To ensure the provision of a high standard of landscape.

10. The scheme of planting hereby approved shall be carried out in accordance with Drawing No. 38C dated 24<sup>th</sup> January 2020 and 39B dated 11<sup>th</sup> May 2017 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

11. The scheme of planting hereby approved shall be carried out and thereafter maintained in accordance with the Landscape Design Statement Doc 12 Rev01 dated 11<sup>th</sup> May 2017 and Landscape Management and Maintenance Plan Doc 11 Rev 01 dated 11<sup>th</sup> May 2017 unless otherwise agreed in writing by the Council.

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

12. No development activity shall commence on site until a protection zone, clearly marked with posts joined with hazard warning tape, has been provided around each badger sett entrance at a radius of 25 meters (as shown on Drawing NEO00388/0011/A). No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within that protection zone without the consent of the Council. The protection zone shall be retained and maintained until all construction or extraction activity has been completed on site.

Reason: To protect badgers and their setts.

13. No development activity shall commence on site until a pre-construction badger survey is carried out by a suitably experienced and competent ecologist for any changes in badger activity or sett excavations at the site and within a 100m radius of all piling activities.

Reason: To protect badgers and their setts

14. No development shall commence until surface water drainage works on-site and off-site have been submitted to, and approved in writing by the Council. The development shall be carried out in

accordance with the approved details unless otherwise agreed in writing by the Council.

Reason: To ensure adequate and suitable drainage from the site and safeguard the site and adjacent land against flooding and standing water.

15. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:
- The identification and evaluation of archaeological remains within the site;
  - Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
  - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
  - Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

16. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 15.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

17. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 15. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

18. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Council to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

19. All construction activity shall be confined within site boundaries, and the boundary of the designated areas shall not be disturbed in any way without written consent from the Council.

Reason: To protect the integrity of Skerries and Causeway SAC, and to avoid it being damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended).

20. A Final Construction Environmental Management Plan must be submitted by the appointed contractor to the Council prior to work commencing. This shall reflect all the mitigation and avoidance measures detailed in the outline Construction Environmental Management Plan version 6 December 2022. This must reflect if any pile driving, rock dumping, blasting or drilling works associated with the proposal is required and all mitigation and avoidance measures to be employed to include a noise risk impact assessment. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the planning authority.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

21. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

22. Site preparation, enabling and construction works, including associated deliveries, shall be undertaken in accordance with Sections 5.10 and 5.11 of the Construction Management Plan (Document 28, dated December 2022). Noise and vibration impacts shall be minimised and controlled by employment of best practice and mitigation measures in accordance with BS 5228, Parts 1 and 2, 2009, "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

Reason: In the interests of residential amenity.

23. Site preparation, enabling and construction works and associated deliveries, shall not take place outside of the following hours, without the prior written consent of the Council:

- 07:00 - 19:00 hours Monday - Friday
- 07:00 - 13:00 hours Saturdays
- No working on Sundays

Noise levels shall not exceed the threshold values as stipulated within Section 5.10 of the Construction Management Plan (Document 28, dated December 2022).

Reason: In the interests of residential amenity.

24. Noise levels during construction shall not exceed the threshold values as stipulated within Section 5.10 of the Construction Management Plan (Document 28, dated December 2022).

Reason: In the interests of residential amenity.

25. The proposed noise bund, indicated on Drawing No. 57B date stamped 29<sup>th</sup> July 2020, to the west of No.120 Ballyreagh Road, Portstewart, and adjacent to the proposed access road, shall be constructed and retained in perpetuity prior to the construction of the hotel building.

Reason: To safeguard the amenity of No.120 Ballyreagh Road, during and after construction.

26. Dust mitigation measures shall be implemented during site preparation, enabling and construction works including deliveries to minimise the generation and movement of dust from the proposed development to sensitive receptors. The dust mitigation measures employed shall be in accordance with the Institute of Air Quality Management, "Guidance on the assessment of dust from demolition and construction, (2014)".

Reason: In the interests of residential amenity.

27. The rated noise emissions from the permitted development, measured in accordance with BS 4142:2014 "Methods of rating and assessing industrial and commercial sound", shall not exceed the levels within Table 1 – Noise Limits:

Table 1 – Noise Limits

Receiver	Daytime 07:00 – 23:00 hours, (LAeq, 1 hour)	Night-time 23:00 – 07:00 hours, (LAeq, 15mins)
Stone Cottage, Ballygelagh Village	36.6dB	32.4dB
108 Ballyreagh Road	35.8dB	31.8dB
1 Ballygelagh Village	34.4dB	30.8dB
3 Ballygelagh Village	34.1dB	30.4dB
120 Ballyreagh Road	40.6dB	39.3dB
50 Portrush Road	34.7dB	33.9dB
49 Portrush Road	34.1dB	33.2dB

100 Ballyreagh Road	33.7dB	31.1dB
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Reason: In the interests of residential amenity.

28. Within 6 months of the development first accommodating paying guests, or within 4 weeks of the Council being notified of a reasonable noise complaint, from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the permitted development operator shall at his/her expense employ a suitably qualified and competent person to undertake a noise survey to assess the level of noise emissions from the permitted development. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with all plant and equipment fully operating. Details of the noise monitoring survey shall be submitted to the Council for written approval prior to any monitoring commencing, at least 2 weeks notification of the date of commencement of the survey shall be provided. The noise survey information shall be provided within 3 months of the date of a written request from the Council.

Reason: In the interests of residential amenity.

29. The development hereby approved shall not become operational without the installation of a sewage treatment plant: Kingspan Klargestar Large Biodisc, using rotating biological contactor technology, as detailed within Appendix C of Document 30, dated December 2022. The sewage treatment plant shall be enclosed, designed, specified, positioned, operated, and maintained in accordance with the Odour Risk Assessment report and specifically the plant installation and operation guidelines prescribed within Appendix C of the report.

Reason: In the interests of residential amenity.

30. The odour emission rate shall be no greater than 339OUE/m<sup>3</sup> when measured in accordance with BS13725 at the sewage treatment plant unit covers, ensuring that the odour benchmark level of < 3OUE/S is achieved at the source.

Reason: In the interests of residential amenity.

31. Within 3 weeks of the Council being notified of a reasonable odour complaint, from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the permitted development operator shall at his/her expense employ a suitably qualified and competent person to undertake an odour assessment to assess and demonstrate conformance with the odour emission rate and odour benchmark level from the permitted development sewage treatment plant and conformance with the installation, operation and maintenance standards as per Conditions 30 and 31. Details of the odour assessment strategy shall be submitted to Causeway Coast and Glens Borough Council for written approval. Prior to any monitoring commencing, at least 2 weeks notification of the date of commencement of the survey shall be provided. The odour assessment report information shall include detail of measurements of odour emission rates, air flow and modelling conducted to determine conformance with the odour level defined within Condition 31. In the event of any breaches a scheme of mitigation measures shall be detailed, and evidence provided of implementation to ensure conformance. The odour assessment report information shall be provided within 1 month of the date of a written request from the Council.

Reason: In the interests of residential amenity.

32. If during the development works, new contamination or risks are encountered which have not previously been identified, works shall 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 human health and environmental receptors to ensure the site is suitable for use.

33. After completing any remediation works required under Condition 32 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report shall 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 the risks and achieving the remedial objectives.

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

34. The extraction systems to all kitchen areas shall be designed and operated in accordance with best practice and performance requirements as detailed within DEFRA Guidance, (2005) "Control of odour and noise from kitchen exhaust systems" and shall be installed and maintained to achieve the odour control criteria commensurate with those detailed as: "High Level of Odour Arrestment Plant Performance".

Reason: In the interests of amenity.

35. The lighting scheme for the development hereby approved shall be designed, installed, operated and maintained to achieve the Lighting Standards stipulated within the "Light Assessment Report at Proposed New Hotel at Portstewart" (Document 18A, date stamped 8<sup>th</sup> April 2021) and detailed on Drawing No.55B date stamped 14<sup>th</sup> April 2021.

Reason: In the interests of amenity.

36. No development shall commence until the vehicular access, including visibility splays is provided in accordance with Drawing No's 40E, 41E, 42E, 46E, 52D and 56E bearing the date stamp 3rd September 2021. 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.

37. The development hereby permitted shall not become operational until the proposed right turn lane is provided in accordance with

Drawing No. 04G (Site Masterplan) bearing the date stamp 10<sup>th</sup> August 2020, Drawing No's 56E (Private Streets Determination Plan), 43C (Longitudinal Section), 40E, 41E, 42E, 46E (Cross Sections), Drawing No. 52D (Construction Details) bearing the date stamp 3<sup>rd</sup> September 2021.

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

38. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The development hereby permitted, shall not be operational until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing No. 56E bearing the date stamp 3<sup>rd</sup> September 2021. 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.

39. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 56E bearing the date stamp 3<sup>rd</sup> September 2021.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

40. The access gradient to the development hereby permitted shall not exceed 4% (1 in 25) over the first 20 m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

41. The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No. 04G bearing date stamp 10th August 2020 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles of customers and staff of the approved development.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

42. The development hereby permitted shall not be commenced until the proposed retaining walls /culvert extension requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved in accordance with CG300 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

43. All services within the development should be laid underground.

Reason: In the interests of visual amenity.

44. Development shall not be occupied until the foul water drainage works on-site and off-site have been submitted to and approved by the relevant authority and constructed by the developer in line with approved design.

Reason: In the interest of public health.

45. Development shall not be occupied until the surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

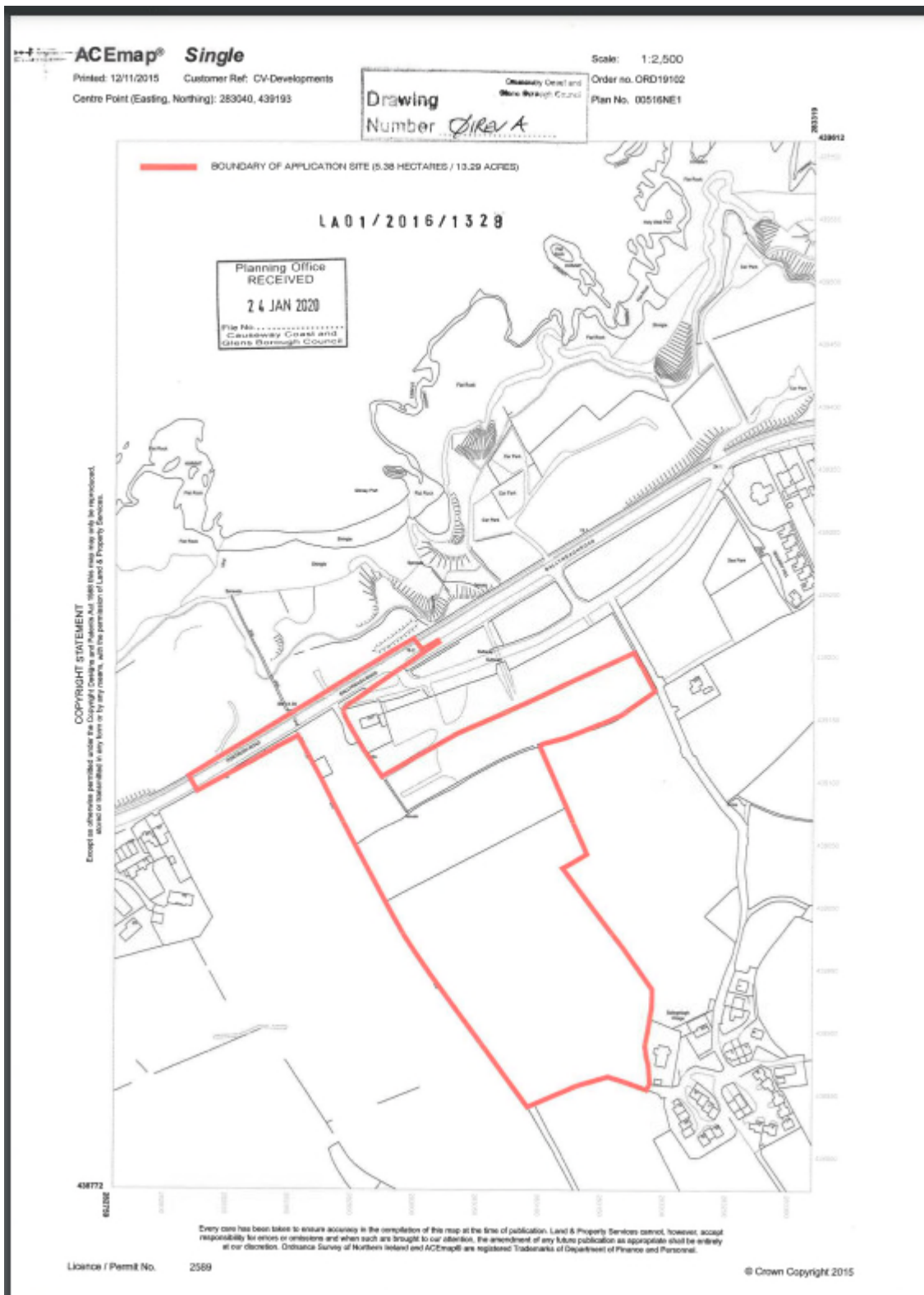
Reason: To safeguard the site and adjacent land against flooding and standing water.

## **6.0 Informatives**

The following five informatives supersede and replace the informatives detailed in Section 10 of the Planning Committee Report as per the contemporary practice of the Planning Department.

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 approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
3. 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.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
5. You should refer to any other general advice and guidance provided by consultees in the process of this planning application by reviewing all responses on the planning portal at <https://planningregister.planningsystemni.gov.uk/simple-search>

# Site Location Plan



# Addendum 3

## LA01/2016/1328/F

### 2.0 Update

- 1.1 In addition to the content of Addendum 2, the following content updates consideration of the application set out in the Planning Committee Report dated 24 January 2018.
- 1.2 The application details box at the start of the Planning Committee Report and Paragraph 5.1 set out the number of representations. The total number of representations has since increased. These figures are currently 136 letters of objection, 183 letters of support, one petition of support, one petition of objection and two non-committals.
- 1.3 Paragraph 2.1 of the Planning Committee Report refers to No. 100 Ballyreagh Road as being a “small derelict bungalow.” This is located on the access lane to Ballygelagh Village. This derelict bungalow has now been replaced with a new dwelling under Ref: LA01/2021/0959/F. This is now substantially complete.
- 1.4 Paragraph 4.2 of the Planning Committee Report refers to the proposed access as “relocating an existing access which serves No. 120 Ballyreagh Road.” It is more appropriate to refer to this as replacing an existing access with a new access.
- 1.5 Paragraph 5.3 of the Planning Committee Report sets out the status of consultations issued on 02 October 2017. This is updated by Paragraph 1.4 of Addendum 2. All consultees are content with the proposal, subject to conditions.
- 1.6 Paragraph 8.60 of the Planning Committee Report refers that comment made by Tourism NI, the NI Hotel Federation and Royal and Ancient (R & A), which are broadly supportive of the proposal, must be given “appropriate weight” in assessment of the application. Regarding weighting, as a material consideration, these comments are now given moderate weight.
- 1.7 Paragraph 8.64 of the Planning Committee Report refers to No. 100 Ballyreagh Road as being “currently unoccupied”. As set out

in paragraph 1.3 above, this property has now been replaced with a new dwelling which is substantially complete.

- 1.8 Paragraph 8.129 of the Planning Committee Report refers to Condition 33 being imposed to ensure that all hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No. 38B. The updated conditions provided in Addendum 2 (and amended drawings) changes this to Condition 41 and approved Drawing 04G.
- 1.9 Paragraph 9.3 in the Conclusion of the Planning Committee Report states that “The proposal requires access onto a protected route and it satisfies policy in this regard”. This is incorrect. The correct position is as set out in paragraphs 3.5- 3.7 of Addendum 2.
- 1.10 A Design & Access Statement is required under Article 6 of the Planning (General Development Procedure) Order (NI) 2015 as the application is major. A Design and Access Statement (Doc 03) dated October 2016 was submitted in support of this application. It was subsequently amended (Doc 03 Rev A) in January 2020. The Design & Access Statement provides details of the design principles and concepts that have been applied to the development and how issues relating to access to the development have been dealt with.
- 1.11 An additional planning condition should be included in any permission granted as detailed below:

The surfacing materials detailed in Drawing No. 38C date received 24<sup>th</sup> January 2020 shall be implemented in accordance with this plan prior to the operation of the new hotel and spa complex hereby approved.

Reason: In the interests of visual amenity.

## **2.0 Recommendation**

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

# Addendum 4

## LA01/2016/1328/F

### 3.0 Update

- 1.1 Another representation has been received in relation to this application. The total number of representations are currently 136 letters of objection, 188 letters of support, one petition of support, one petition of objection and two non-committals.
- 1.2 At the Pre-Determination Hearing on 17 November 2023, Mr Jim Allister MLA (Mr Allister) spoke in objection to the application. Substantive issues, not already addressed in the Planning Committee Report and Addenda, are addressed as follows.
- 1.3 Mr Allister stated that it would have been appropriate for the Planning Department to have issued a new Planning Committee Report. The established practice of the Planning Department is to update Planning Committee Reports by means of Addenda Reports. Publication of such Addenda Reports is consistent with this practice.
- 1.4 Mr Allister commented on the frequency of meetings between the Planning Department and the Applicant/ Agent. Since the planning permission was last quashed on 09 August 2019, the Planning Department met with the Applicant/ Agent on three occasions. This is considered appropriate given: the context of next steps after quashing of the planning permission; the scale of the proposal; additions to the proposal (sewerage treatment plant and boreholes) and; the need to update substantive information pertaining to the site selection exercise and information on delivery of the project.
- 1.5 Mr Allister queried the circumstances of the Planning Department contacting the Agent on 10 November 2023 to, in part, advise that the Agenda for the Pre-Determination Hearing clarifies that only those members in attendance at the Pre-Determination Hearing



can vote at the Planning Committee meeting. This was in response to a specific query raised by the Agent in the course of a telephone conversation with the Planning Department on 07 November 2023.

- 1.6 Mr Allister stated that the Council must not entertain this application as notice under Certificate C of Section 42 of the Planning Act (Northern Ireland) 2011 has not been served on a third party. He identified this third party as the owner of Folio 12451 Co. Londonderry. This provision in the legislation is intended to ensure that certain persons likely to be interest or affected by a planning application are notified of it, assuming that the certificate is properly served. There is no obligation on the Planning Department to check the accuracy of certificates unless it is challenged. If, during the processing of a planning application, the certificate is challenged from whatever quarter, as is the case in this instance, the Planning Department must investigate and satisfy itself of the position. The Planning Department was previously (prior to the Pre-Determination Hearing), unaware of this issue.
- 1.7 To progress the matter, the Planning Department contacted the Agent on 20 November 2023. In referring to the information provided by Mr Allister, the Planning Department requested the Agent to either: confirm the content of the most recent Planning Application Certificate dated 13 July 2022 is correct or; submit a new Planning Application Certificate. Further to this, the Agent responded on 21 November 2023 to advise that the Applicant's legal team have reviewed matters and confirmed that the content of the most recent Planning Application Certificate dated 13 July 2022 is correct. A copy of the Folio map was provided along with this superimposed on an extract of the Ordnance Survey map 5<sup>th</sup> edition. The response concludes that Folio 12451 Co Londonderry therefore remains under the control of the Department for Infrastructure who were notified.
- 1.8 To progress the matter, the Planning Department proposes to investigate the matter further. It is not appropriate to entertain the application further until the Council is satisfied of the position.
- 1.9 Additional planning conditions should be included in any permission granted as detailed below to protect residential amenity:

The development shall not become operational until a 2m high acoustic fence and a 1m high earth bank acting as an acoustic bund is constructed in accordance with and at the locations detailed within Drawing No. 57B date stamped 29<sup>th</sup> July 2020. The 2m high acoustic timber barrier shall have a surface weight of not less than 15kg/m<sup>2</sup>, be of continuous, solid construction (i.e. no holes or gaps at the bottom for sound to pass through), and so if it is a fence it should be of ship-lapped design. This acoustic barrier shall be maintained in perpetuity with the lifetime of the development.

Reason: In the interests of residential amenity.

Vertical Lux levels at nearest receptors as depicted within Drawing Number 55B (17-03-11-01G), date stamped 14<sup>th</sup> April 2021, shall not exceed, Table 2 Obtrusive Light Limitations for Exterior Lighting Installation applicable to Environmental Zone E2 contained within the Light Assessment Report (Document 18A, date stamped 8<sup>th</sup> April 2021).

Reason: In the interests of residential amenity.

## **2.0 Recommendation**

- 2.1 That the Committee note the contents of this Addendum and agree to **defer the application** pending being satisfied on the position regarding the challenge to the Planning Application Certificate. This recommendation supersedes the recommendations provided in the Planning Committee Report and subsequent addenda.

# Addendum 5

## LA01/2016/1328/F

### 1.0 Update

- 1.1 As set out in Addendum 4, at the Pre-Determination Hearing on 17 November 2023 Mr Allister, an objector to the application, raised a challenge relating to the Planning Application Certificate accompanying the application. He advised notice under Certificate C of Section 42 of the Planning Act (Northern Ireland) 2011 was not served on a third party. He identified this third party as the owner of Folio 12451 Co. Londonderry. At the Planning Committee Meeting on 22 November 2023, it was recommended to and agreed by the Planning Committee to defer the application pending being satisfied on the position regarding the challenge to the Planning Application Certificate.

#### Planning Application Certificate

- 1.2 The application site includes land at the proposed access to Ballyreagh Road. Folio 12451 Co. Londonderry comprises an elongated strip at the access to the site. This strip includes part of Ballyreagh Road and its footway, an area of hard surfacing and a wall with grass area. Much of this strip is included within the application site.
- 1.3 To progress the challenge to the Planning Application Certificate, the Planning Department contacted the Agent on 20 November 2023. The Agent replied the following day to confirm the content of the most recent Planning Application Certificate dated 13 July 2022 was correct.
- 1.4 The Planning Department contacted DfI Roads with this response on 24 November 2023 and sought clarity as to whether the full extent of Folio 12451 Co. Londonderry is in the control of the Department for Infrastructure. On the same date, the Planning

Department contacted the Agent and asked them to set out their position on notification of Wallace as the registered owner of the folio. The Agent replied on the same date to advise that no party other than Dfl Roads (including the registered owner) is in actual possession or is entitled to enter into actual possession within a period of 40 years.

- 1.5 Dfl Roads replied to the Planning Department on 06 December 2023. The detail of the response showed that not all of the folio was adopted or maintained by Dfl Roads. On the same date the Planning Department contacted the Agent providing the response from Dfl Roads and requested them to set out their position on the content of the Planning Application Certificate.
- 1.6 On 11 December 2023 the Agent advised the Planning Department that they had contacted Dfl Roads to seek further information on the matter.
- 1.7 On 11 March 2024 the Agent advised the Planning Department that no response had been received from Dfl Roads. Additionally, they advised that, as a precautionary measure, the owners of the folio have been notified. The Agent submitted an amended P1 Form date received 12 March 2024 with Mrs Jean Wallace included on Certificate C.
- 1.8 On 15 March 2024 the Planning Department advised that, further to investigation of land ownership within the red line of the application site, a small portion of unregistered land was identified. This portion of land is located adjacent to Folio 12451 Co Londonderry. The Planning Department requested clarity on whether relevant persons have been notified in respect of this portion of land.
- 1.9 On 15 and 28 March 2024 the Planning Department received objections from Hastings Solicitors on behalf of Mrs Wallace, the owner of Folio 12451 Co. Londonderry.
- 2.0 On 11 April 2024 the Applicant's solicitor advised that a Certificate D would be lodged in respect of the unregistered section of land as identified by the Council. Certificate D is the applicable certificate where after enquiries, the Applicant/ Agent is unable to issue a Certificate A, B or C to address all parts of the application site. This was submitted to the Planning Department on 16 April 2024. This is the most recent Certificate on the application and supersedes those provided previously. Notice was served on all

those detailed in the “Planning Act (Northern Ireland) 2011 Section 42 Certificate D Ownership Table” on 16 April 2024. Mrs Jean Wallace and Mrs Kaur Singh were notified in addition to those previously notified in original and subsequent certificates. Advertisement notices were placed in the Belfast Telegraph (9 April 2024), Coleraine Times (10 April 2024) and Coleraine Chronicle (11 April 2024) to alert any unidentified landowner allowing 14 days for comments to be made to the Council. Owing to the new Certificate of Ownership, the Planning Department re-advertised the application on 15 May 2024. Neighbours/ objectors/ supporters were re-notified on 2 May 2024.

- 2.1 On 19 April 2024 TLT Solicitors on behalf of Mrs Singh of 120 Ballyreagh Road supplied the Planning Department with a copy of correspondence issued to the Agent. This requested clarification on land subject to service of notice. The Agent copied the Planning Department into their response of 07 May 2024 which provided clarification.
- 2.2 On 15 May 2024 Hastings Solicitors on behalf of Mrs Wallace, the owner of Folio 12451 co. Londonderry, withdrew their client’s objections.

### Representations

- 2.3 On 16 November 2023 Mervyn Whyte MBE as Event Director of the North West 200, submitted a representation of support. In summary, this states: the demand for premium hotel accommodation for those associated with the NW 200 event; fully supportive of the proposal; will allow the NW 200 event to grow; hotel will operate successfully all year including through race week without impacting events; will enhance the race week experience; office and exhibition space will provide a permanent home for the NW 200 team and allow promotion of races to a global audience throughout year; investment will create opportunities for local business and suppliers; job creation and; will allow visitors and tourists to stay in the area longer.
- 2.4 Further representations have been received in relation to this application since presentation at the Planning Committee Meeting on 22 November 2023. Two additional letters of support were received raising similar points detailed under the sub-heading “Support” in paragraph 2.1 of Addendum 2. Five additional letters of objection have been received re-iterating original objection

points as well as raising new points of concern. A further two objections were originally received on behalf of Mrs Jean Wallace regarding Folio 12451 Co. Londonderry. However, these objections dated 13 and 28 March 2024 have been withdrawn upon request as detailed in correspondence dated 15 May 2024 from Hastings Solicitors.

2.5 The total number of representations are currently 141 letters of objection, 188 letters of support, one petition of support, one petition of objection and two non-committals.

2.6 New objection points raised (which continue to subsist) are summarised below:

- The Anchor Bar Complex in Portstewart has concerns that this new hotel would result in loss of business for them. They have no on-site parking and there is only charged car parking surrounding their business so this new hotel would be more appealing to guests with parking on-site. They believe there is sufficient hotel accommodation provided at this locality.
- It was a failing of the Applicant not to inform a key landowner of the application proposal.
- Why was this application made valid when Certificate C is invalid, and the access is unattainable?
- How did the Council defend the judicial review proceedings without disclosing the easement did not in fact include land essential to the development?
- The Council knew these lands were in ownership of an unnotified third party from at least 5 June 2018 (LPS advised Council), so why was this matter only exposed on 17 November 2023?
- The Applicant does not have a lawful easement over all the land it needs for access. Notice of the application to a third party does not provide the Applicant with the rights and easement it needs over their land. This application is non-viable which should be refused. It is for the Applicant to demonstrate the requisite ownership/ control. If approval were granted, then a strict condition of no development until the Applicant has obtained full and legal control of the lands required for the access and sight lines should be applied.
- There is no “legal principle” that once a highway, always a highway.

- Coleraine and District Motor Club has not been in occupation of the land in question in excess of twelve years. The Club cannot claim “nec vi nec clam, nec precario” (without force, without secrecy, without permission) for this area of land.
- DfI Roads advised the subject lands are not part of the public road.
- Copy of correspondence provided on behalf of Land and Property Section of Council regarding mapping error on easement map for access, corrected by Land Registry.

### Consideration

- 2.7 The issue of commercial competitiveness is a relevant material consideration as the specified business is located in Portstewart Town Centre as designated by the Northern Area Plan 2016. The importance of town centres as important hubs for a range of land uses and activities, as set out in the SPPS, is recognised. While the proposal may have an adverse impact on the business of the specified town centre premises, this is outweighed by the wider employment, economic and tourist benefits arising from the proposal. These benefits are detailed in the original Planning Committee Report dated 24 January 2018 under the “Economic Considerations” Section specifically at paragraph 8.55.
- 2.8 It is recognised that the Applicant should have served requisite notice on all relevant landowners/ relevant persons before submission of the application. The application was initially made valid as it was not known to the Planning Department at that time that the content of Certificate C was incorrect/ incomplete. However, Certificate D has now been completed with notice served on relevant persons. Certificate D is considered the correct certificate given the circumstances of this application.
- 2.9 Before the Pre-Determination Hearing on 17 November 2023, the Planning Department was unaware of the third-party land ownership issue. Accordingly, this issue was not articulated by the Planning Department in the previous judicial review proceedings. It is acknowledged that service of notice on third parties does not constitute rights and easement to carry out the development. Commentary on the issue of the access being allegedly unattainable is addressed at Paragraph 3.77 of Addendum 2.

2.10 The matter of the extent of the easement granted to the developer is principally a matter for the land and property business of the Council. Similarly, is the issue regarding the mapping error of the easement, corrected by Land Registry. As set out at Paragraph 3.78 of Addendum 2, while the easement is a relevant material consideration to assessment of the application, it has little weight. Of greater weight as a material consideration, is that the necessary notices have been served on other landowners/ relevant persons on the extent of the application site.

### **3.0 Recommendation**

3.1 That the Committee note the contents of this Addendum and agree with the recommendation to approve full planning permission subject to the conditions set out in Section 5.0 of Addendum 2, paragraph 1.11 of Addendum 3 and paragraph 1.9 of Addendum 4.



# Erratum

## LA01/2016/1328/F

### Full Planning Permission

#### Erratum

The third paragraph of the Executive Summary includes the following text stating the number of representations:

*As a result of the consultation process there were a total of 48 letters of objection and 54 letters of support.*

It is amended to:

*As a result of the consultation process there were a total of 75 letters of objection, 85 letters of support, one petition of support and one petition of objection.*

In the title box at the beginning of the Committee Report, it states the number of representations as follows:

<i>Objections: 48</i>	<i>Petitions of Objection: 0</i>
<i>Support: 54</i>	<i>Petitions of Support: 0</i>

It is amended to:

<i>Objections: 75</i>	<i>Petitions of Objection: 1</i>
<i>Support: 85</i>	<i>Petitions of Support: 1</i>

Paragraph 5.1 of the report states the number of representations as follows:

*There have been 47 (forty-seven) letters of objection and 53 (fifty-three) letters of support.*

It is amended to:

*There have been 75 (seventy-five) letters of objection and 85 (eighty-five) letters of support along with one petition of objection and one petition of support.*

### **Recommendation**

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



# Causeway Coast & Glens Borough Council

## SITE VISITS – WEDNESDAY 28 JUNE 2017, 10 AM

### **C/2014/0051/F**

Address: Site adjacent to No 5 Circular Road, Castlerock  
Proposal: Proposed No. 2 Semi-detached dwellings  
Attendees: Aldermen King, Cole, McKeown; Councillors Baird, Fitzpatrick, Loftus, McCaul, McLaughlin, MA McKillop, and Mc Shane

From the road frontage officials explained the proposal and the key differences from the original scheme. It was pointed that the proposal was considered acceptable in terms of its context and relationship with other buildings. Members noted these points.

### **LA01/2016/1328/F**

Address: Land south of 120 Ballyreagh Road, Portstewart  
Proposal: Full application for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction including exhibition space, tourist retail unit ( c.150 sq m ) and office space, demonstration restaurant, car/coach parking, access/junction alterations, landscaping and associated infrastructure works) on land south of 120 Ballyreagh Road, Portstewart.  
Attendees: Aldermen King, Cole, McKeown, S McKillop; Councillors McLaughlin, Fitzpatrick, MA McKillop, McCaul, Baird, & Loftus

From the pits area the location of the access point was identified. Officials explained the location of the different components and the context relative to existing site. Explained proposal was for hotel , demonstration restaurant, holiday units and office space. Discussed the extent of views from Ballyreagh Road, and the settlement limit edge and location close to the settlement. Discussed relationship of access to existing dwelling at 120 Ballyreagh Road. Then went to Ballygelagh Village, and looked at various views from there. Members queried heights of buildings and relationship between them. Officials advised accordingly.

**LA01/2017/0379/F - Main Street, Portrush**

Address: Public Realm improvement scheme including Ramore Avenue Lansdowne Road, Bath Road, Bath Terrace, Bath Street, Church Pass, Atlantic Avenue, Main Street, Eglinton Street (from Causeway Street to Train Station) Dunluce Avenue (Eglinton Street to Dunluce Car Park), Causeway Street (Main Street to Library)

Proposal: Public Realm Scheme including resurfacing footways in granite and exposed aggregate concrete, decorative street lighting, feature seating areas along the promenade, new street furniture, re-arrangement of car parking at Bath Road and outside the Coastal Zone, new controlled pedestrian crossing on Causeway Street, improved pedestrian access between Bath Terrace and Bath Road, improved stepped access and wall at War Memorial

Attendees: Aldermen S McKillop, Cole, McKeown; Councillors Loftus, MA McKillop, McLaughlin, & McCaul

From Lansdowne and Main Street, officials indicated the key features of the scheme and the proposed materials. Members noted these points.

**SITE VISIT REPORT: MONDAY 20 November 2023**

*Committee Members: Alderman, Boyle, Coyle, Scott, Stewart, S McKillop (Vice Chair) and; Councillors Anderson, C Archibald, Hunter, Kennedy, McGurk, McMullan (Chair), Peacock, Nicholl, Storey, Wallace and Watton*

**LA01/2016/1328/F- Land south of 120 Ballyreagh Road, Portstewart BT55 7PT**

Proposed by Ald Scott, Seconded by Cllr Kennedy

**App Type: Full Application**

**Proposal: Full application for a Hotel and Spa Complex ( including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction (including exhibition space, tourist retail unit ( c.150 sq m ) and office space), demonstration restaurant, car/coach parking, access/junction alterations, landscaping, private sewerage treatment plant and water bore holes together with associated apparatus/infrastructure works on land south of 120 Ballyreagh Road (A2), Portstewart, BT55 7PT**

**Present:** Ald Boyle, Coyle, Scott, Stewart and Cllrs Archibald, Hunter, Kennedy, Storey and Watton

Officials S Mathers, G Doherty

**Apologies:** None

**Comments:**

Site visit commenced in Pits area to the east of 120 Ballyreagh Road. S Mathers advised that the application was for, broadly, a proposed hotel, 9 holiday cottages, a demonstration restaurant and car parking. He showed the site location plan (Drawing 01 Rev 07A) and pointed out the extent of the application site. S Mathers identified that the spur of the application site running east towards No. 100 Ballyreagh Road was not included within the extent of development shown in the Site Layout Plan (Masterplan) Drawing 04G.

S Mathers showed the Portstewart Map from the Northern Area Plan (Map 3/05a) and identified the location of the settlement development limit, pointing out the intervening part of the golf course between it and the application site boundary.

S Mathers showed the Site Layout Plan (Masterplan) Drawing 04G and pointed out (both on the plan and on site) the principal elements of the hotel building, the 9 holiday cottages, the demonstration restaurant, the car park areas and the access. It was pointed out the hotel had two principal entrances and where these were. The three parts of the “T” shape plan of the hotel were identified: the NW200 area and conference facilities; the leisure and pool area and; the bedroom accommodation. He showed the Front (north elevation) Side (west) and Rear (south) Elevation Drawing (Drawing 36) of the hotel building. Pointing to the front (north) elevation, he stated that the hotel building was mainly three storey with a height of 11.5 metres rising to a highest point of 13.5 metres.

The site visit resumed at the access point to the immediate west of no. 120 Ballyreagh Road. S Mathers showed the Site Layout Plan (Masterplan) Drawing 04G and pointed out (both on the plan and on site) the location of the proposed access. He stated that the access was a new access in lieu of the existing access at this location. He added that while this did not accord with the terms of Policy AMP 3 of PPS 3 Access, Movement and Parking, it was nonetheless considered acceptable for the reasons provided in Addendum 2. Members asked where the strip of ground was that Jim Allister MLA referred to at the Pre-Determination Hearing on Friday 17 November 2023. S Mathers showed the Land Registry Map showing Folio 12451 Co Londonderry. Members looked at the area on the ground and observed that while a portion of the strip fell within the public road/ footpath, part of it extended beyond the edge of the public road/ footpath. Members asked what the position was of the Planning Department on the matter. S Mathers advised that it was under consideration and would be addressed in a further Addendum report (Addendum 4).

The site visit resumed at Ballygelagh Village on the access road to the immediate west of nos. 2 and 3 Ballygelagh Village. S Mathers showed the Site Layout Plan (Masterplan) Drawing 04G and pointed out (both on the plan and on site) the key elements of the proposal; the hotel building, the 9 holiday cottages, the demonstration restaurant and the car park areas. He pointed out the roof of no. 120 Ballyreagh Road as a reference point to identify the location of the access. Pointing out (both on plan and on site) S Mathers identified the specific location of the single storey holiday cottages and the split-level holiday cottages. After pointing out the location of the demonstration restaurant (both on the plan and on site), Members asked about the levels on the site. S Mathers, referring to Drawing 04G, pointed out the site level to the immediate front of the demonstration restaurant was 29.5 while that the hotel building entrances was 19.55 and 19.68. Members asked how the demonstration restaurant was to be constructed relative to the changing topography on this area of the site. S Mathers pointed out how this was to be achieved referring to the Demonstration Restaurant East Elevation North Elevation Drawing 27. He

stated that the original proposal, at pre-application stage, was for this to be a restaurant but due to the outworking of the public consultation, this was changed to a demonstration restaurant which would provide cookery lessons. Members asked if the small hill with gorse (whin) bushes to the south-east corner of the site was to be maintained. S Mathers confirmed that it was.

Members queried whether the development would change the view from some of the properties at Ballygelagh Village. S Mathers advised that it would. He added that the impact on the amenity of these dwellings, including the visual impact, was considered in processing the application.

S Mathers asked whether Members wished to convene at another location to consider the application from there. Members advised that this was not required.