

<b>Planning Committee Report</b> LA01/2018/1352/F	<b>26<sup>th</sup> June 2019</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>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/A

<b><u>No:</u></b> LA01/2018/1352/F	<b><u>Ward:</u></b> ATLANTIC
<b><u>App Type:</u></b> Full Planning	
<b><u>Address:</u></b> Land south of 120 Ballyreagh Road, Portstewart, BT55 7PT	
<b><u>Proposal:</u></b> Section 54 application to vary Condition 13 of Planning Permission LA01/2016/1328/F to state: "All further site works of whatever nature and development shall be undertaken in accordance with the Archaeology written scheme and programme submitted and approved by Council".	
<b><u>Con Area:</u></b> N/A	<b><u>Valid Date:</u></b> 31.10.2018
<b><u>Listed Building Grade:</u></b> N/A	
<b>Agent:</b> Ferguson Planning	
<b>Applicant:</b> C&V Developments Ltd	
<b>Objections:</b> 2	<b>Petitions of Objection:</b> 0
<b>Support:</b> 0	<b>Petitions of Support:</b> 0

## **1 Recommendation**

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

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located east of Portstewart. The land is bound by Portstewart golf course on the west, an agricultural field on the southern boundary and cluster of holiday homes known as (Ballygelagh Village) to the south-east. The western boundary is defined by a low level stone wall and vegetation. 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 surrounds 120 Ballyreagh Road.
- 2.2 Lands to the north of Ballyreagh Road is open and consists of a section of coastal walk from Portstewart to Portrush. There is a golf course to the north/west of the site. Ballyreagh Road rises to the east of the site and Ballygelagh Village is characterised by two-storey white rendered dwellings. There is a stone cottage to the north of the site. 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 in the immediate context.

## **3 RELEVANT HISTORY**

LA01/2016/1328/F- North West Hotel and Spa Complex land south of 120 Ballyreagh Road, Portstewart, Co Londonderry, BT55- 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- Approval granted: 06.03.2018.

LA01/2018/0729/DC- Land South of 120 Ballyreagh Road, Portstewart- Discharge of Condition No. 12 from LA01/2016/1328/F- Approval granted: 15.10.2018

LA01/2018/0777/DC- Land South of 120 Ballyreagh Road, Portstewart- Discharge of Condition 16 of LA01/2016/1328/F- Approval granted: 20.12.2018.

## **4 THE APPLICATION**

- 4.1 Section 54 application to vary Condition 13 of Planning Permission LA01/2016/1328/F to state: "All further site works of whatever nature and development shall be undertaken in accordance with the Archaeology written scheme and programme submitted and approved by Council".

## **5 PUBLICITY & CONSULTATIONS**

### **External**

- 5.1 **Neighbours:** 2 letters of objection were received in reference to this application. The objections raised the following points of concern:
- a) Land ownership query regarding certificate 'C' on the P1 form.
  - b) Compliance with previous conditions under the previous permission LA01/2016/1328/F.
  - c) Concerns regarding the archaeological methodology.
  - d) Concerns regarding the archaeological reporting.

## **Internal**

5.2 **Historic Environment Division:** Has raised no objection to 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

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

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 6 (PPS6) Planning, Archaeology and The Built Heritage

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main consideration in the determination of this application relate to the principle of development and archaeological impacts.

### **Planning Policy**

- 8.2 The principle of the development proposed must be considered having regard to the Northern Area Plan and PPS policy documents specified above and the supplementary guidance.

### **Northern Area Plan**

- 8.3 The site falls within the countryside area and is located outside the Portstewart Settlement Development Limit as defined by the NAP 2016. The settlement limit follows the western boundary of the golf course and a local landscape policy is located adjacent to the site. The site does not fall within any protected designations.

### **Principle of Development**

- 8.4 Under the initial application reference LA01/2016/1328/F permission was granted 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. Consultations were sent to Historic Environment Division to consider the implications of this proposal on the immediate context and they stated that having reviewed the submitted archaeological programme of works, they agree with the archaeological mitigation strategy date received 31/10/18. HED have confirmed that they are content with the scheme subject to a condition. This application seeks to vary Condition 13 of the previous approval which relates to the provision of a developer-funded programme of archaeological works.

8.5 Currently condition 13 states:

*“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.*

The application seeks consent to amend Condition 13 of planning approval LA01/2016/1328/F to read:

*“All further site works of whatever nature and development shall be undertaken in accordance with the Archaeology written scheme and programme submitted and approved by Council”*

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

### **Archaeological Impacts**

8.6 The scheme is considered having regard to Planning Policy Statement 6 and paragraphs 6.8-6.11 of the SPPS. Policy BH2 of Planning Policy Statement 6 relates to this application and includes provisions to preserve and protect Archaeological Remains of Local Importance and their Settings.

8.7 In regard to this application, Historic Environment Division (HED) was consulted on 3 occasions. Within the initial consultation response on 21st November 2018, it was stated that HED were content that the variation is appropriate, and emphasises that the specific mitigation strategy is provided for within the archaeological programme of works date received 31st October 2018. They stated that they were content for the

scheme to proceed to archaeological licensing. HED were re-consulted in reference to the objection received and responded on 19th February 2019. HED stated in response to the objection points in reference to topsoil sifting, that “it is normal practice in NI to require topsoil sifting, both for practical reasons relating to the nature of our topsoil and also for the normally low potential of topsoil to contain significant archaeological material, unless there are site-specific reasons for increased archaeological potential in the topsoil. HED Historic Monuments did not consider that any specific need for topsoil sifting has been demonstrated at this site”.

8.8 HED highlighted that the public interest will be realised in the application of planning policy for archaeological mitigation, and in the production of a final report on the archaeological works, to publication standard if necessary, which will be made available on the NI sites and Monuments record. HED were further consulted on the submitted archaeological programme of works. In their response on 9th April 2019, HED stated that they were content with the mitigation strategy proposed and are content for the scheme to proceed to archaeological licensing. They stated that the following issues should be addressed with the licence application:

- 1) Section 3.2.1 of the archaeological programme of works will require an annotated scale plan clearly showing the areas where the initial phase of topsoil removal is to take place must be provided.
- 2) Section 3.2.2 of the archaeological programme of works highlights the methodology should aim for full excavation of the features. Half sections and quadrants are only acceptable if agreed on site with the licence inspector. 40% excavation of linear features is acceptable only for large features: if anything structural is identified (e.g. evidence of palisades etc.) full excavation may be required. Full excavation is also usually required for smaller linear features such as ring-ditches.

8.9 A further email from HED on 3rd May 2019 confirmed that standard access conditions would still be applicable to the development. Given the comments from HED the proposed development is considered to comply with Policy BH2 of PPS6.

## **Land ownership**

- 8.10 In relation to the objectors concern regarding the completion of Certificate 'C' of the application form. The agent provided Land Registry Folio certificate and map to show that the applicants are the owners of the majority of the land in question. The other owners of lands have been served notice as highlighted by the agent.

## **9 CONCLUSION**

- 9.1 The proposal is considered acceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS. Having considered the impact of this variation of condition it has been determined in consultation with Historic Environment Division that the proposed works would not have a significant detrimental impact on site. The variation of condition 13 is considered acceptable. Approval is recommended.

## **10 CONDITIONS**

10.

The proposed development is subject to drawing No. 01 and DOC 01 (Archaeological programme of works) of application LA01/2018/1352/F and drawing Nos 01, 02, 03, 04D, 05C, 06B, 07, 08, 09, 10, 11, 12, 17, 22, 23, 25, 26, 27, 28, 32A, 33B, 34A, 35, 36, 37, 38B, 39B, 40C, 41C, 42C, 43C, 46C, 52C, 53A, 54, 55, 56, 57, 60, 61, 62, 63A, 64, 65, DOC 07 REV 01, DOC 09, DOC 11 REV 01, DOC 12 REV 01, DOC 13A, DOC 14, Addendum to DOC 14 and DOC 18 of planning approval LA01/2016/1328/F.

Regulatory Conditions:

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before 4th March 2023.

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 8th 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 8th 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 8th 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 Porstewart 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 20th 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 11th May 2017 and 39B dated 11th 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 11th May 2017 and 39B dated 11th 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 11th May

2017 and Landscape Management and Maintenance Plan Doc 11 Rev 01 dated 11th 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. 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).

13. All further site works of whatever nature and development shall be undertaken in accordance with the Archaeology written scheme and programme submitted and approved by Council.

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. 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.

16. 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.

17. 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.

18. The proposed noise bund, indicated on Drawing No. 57 date stamped 7th 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.

19. 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.

20. 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 of the Environmental Health consultation response dated 8<sup>th</sup> May 2017.

Receiver	Daytime 07:00 – 23:00 hours, (L <sub>Aeq</sub> , 1 hour)	Night-time 23:00 – 07:00 hours, (L <sub>Aeq</sub> , 15mins)
Stone Coattage, 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.

21. 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.

22. 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.

23. After completing any remediation works required 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.

24. 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.

25. 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 29th March 2017.

Reason: In the interests of amenity.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

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



Reason: In the interests of visual amenity.

#### Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent sites for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. 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.
4. 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 <http://epicpublic.planningni.gov.uk/publicaccess/>.

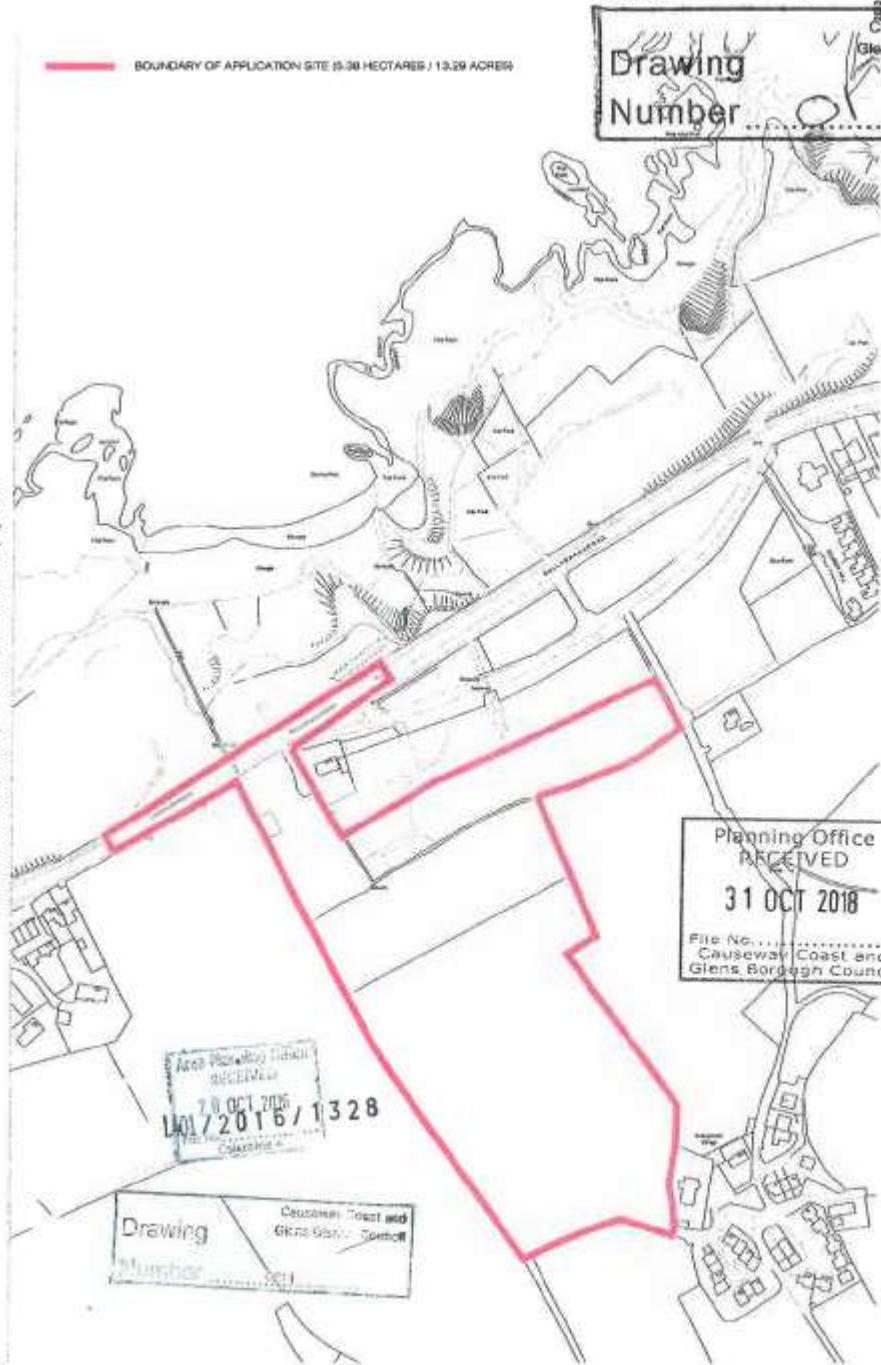
#### Site Location

LAB 1/2018/1352

Causeway Coast and  
Glens Borough Council  
Drawing  
Number

BOUNDARY OF APPLICATION SITE (5.38 HECTARES / 13.28 ACRES)

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