

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.planningsystemni.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.
- DfI Roads has failed to adequately address all substantial points raised by objectors. It is unsustainable for DfI 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 DfI 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 Klargestor 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 sewage 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 800m² 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 20th June 2023
- ASM Accountants dated 26th June 2023
- Interstate Hotels / Aimbridge (Hospitality Company – Hotel Operator) dated 3rd July 2023
- Aimbridge (Hospitality Company – Hotel Operator) dated 21st 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 10th 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 10th 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 10th 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 24th 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 24th January 2020 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. 38C dated 24th January 2020 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. 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 29th 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

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 Klargester 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/m³ 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 8th April 2021) and detailed on Drawing No.55B date stamped 14th 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 10th 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 3rd 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 3rd 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 3rd 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

