

Planning Committee Report LA01/2018/0016/F	27th March 2019
PLANNING COMMITTEE	

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

<u>No:</u> LA01/2018/0016/F	<u>Ward:</u> Lurigethan
<u>App Type:</u> Full Planning	
<u>Address:</u> South of River Dall, Cushendall Bay, Cushendall.	
<u>Proposal:</u> Demolition and removal from site of approximately 59m of existing mass concrete coastal retaining wall and a section of redundant footpath (new footpath located up to 10m at the widest point at landward of the existing). The soil embankment shall be re-profiled utilising existing sand fill and comprise erosion control matting which will be planted with native grass species. In addition, relocation of 1 No. bin and 1No. lamp posts will be required.	
<u>Con Area:</u> Cushendall	<u>Valid Date:</u> 22.12.2017
<u>Listed Building Grade:</u> N/A	
<u>Agent:</u> Doran Consulting, Norwood House, 96-102 Great Victoria Street, Belfast. BT2 7BE	
<u>Applicant:</u> Causeway Coast and Glens Borough Council, Riada House, 14 Charles Street, Ballymoney. BT53 6DZ	
<u>Objections:</u> 0	<u>Petitions of Objection:</u> 0
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The subject site extends to c. 0.083 hectares. The site incorporates the public coastal footpath which links Dalriada Park to the footbridge over the River Dall, together with approximately 59m of the existing sea defense wall within Cushendall Bay. The lands to the North and East are dominated by existing coastline, with residential development and Cushendall Golf Course existing the the South and West respectively.
- 2.2 The surrounding area is a mix of residential dwellings, and public open amenity space, dominated by the coastline, and Cushendall Beach.
- 2.3 The site is located outside the settlement development limit of Cushendall as defined within the Northern Area Plan 2016. The site lies within the Antrim Coast and Glens AONB, the Cushendall Conservation area, and CLL02 Golf Links LLPA, together with being in close proximity to an Archaeological Site and Monument (Unscheduled).

3 RELEVANT HISTORY

- 3.1 The application is running in tandem with an associated application for demolition consent to remove approximately 59m of the existing mass concrete gravity coastal retaining wall. This application is being processed by the Department of Infrastructure under LA01/2018/0014/DCA in accordance with,

s105 of the Planning Act (Northern Ireland) 2011) and paragraph 11(2) of The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015.

4 THE APPLICATION

- 4.1 Planning Permission is sought for the demolition and removal from site of approximately 59m of existing mass concrete coastal retaining wall and section of redundant footpath (new footpath located up to 10m at the widest point at landward of the existing). The soil embankment shall be re-profiled utilising existing sand fill and comprise erosion control matting which will be planted with native grass species. In addition, relocation of 1 No. bin and 1No. lamp posts will be required.

5 PUBLICITY & CONSULTATIONS

5.1 External

Advertising: No objections raised in respect of this proposal.

Neighbours: There are no objections to the proposal

5.2 Internal

Shared Environmental Services: No objections

Environmental Health Department: No objections

DFI Rivers: No objections

DAERA NED: No objection in principle. A Construction Environmental Management Plan should be submitted to the Planning Authority for review and agreement prior to undertaking works.

DAERA Marine and Fisheries Division: No objections to the proposed development.

DFI Roads: No objections

Historic Environment Division: No objections

Conservation Officer: No objections

6 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) – Planning for sustainable development 2015

Planning Policy Statement 2: Natural Heritage

PPS 6: Planning, Archaeology and the Built Heritage

Revised PPS 15: Planning and Flood Risk

Planning Policy Statement 21: Sustainable development in the countryside

Supplementary Planning Guidance

Cushendall Conservation Area Design Guide

8 CONSIDERATIONS & ASSESSMENT

Planning Policy

- 8.1 The main considerations in the determination of this application relate to: Flood risk, Integration and Design, and Natural Heritage.
- 8.2 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above.
- 8.3 The site is located outside the settlement development limit for Cushendall and is within the Antrim Coast and Glens AONB, Cushendall Conservation area, and CLL02 Golf Links LLPA, together with being in close proximity to an Archaeological Site and Monument (Unscheduled).

Principle of Development

- 8.4 The application falls to be considered against the SPPS, PPS 2, PPS 6, PPS 15, and PPS 21.

Flood Risk

- 8.5 The Flood Hazard Map (NI) indicates that the site lies within the 1 in 200 year coastal flood plain. The predicted 1 in 200 year flood level at this location is 2.56mOD Belfast. A Flood Risk Assessment was submitted with the application.
- 8.6 The proposed works are in the vicinity of the River Dall, and are confined to the South abutment of the footbridge over the River Dall, extending southwards for approximately 59m along the coastline. The proposed embankment will replace the existing concrete faced gabion baskets located on the seaward (eastern) side which have been undermined due to scour. The proposal will occupy a similar footprint to the existing concrete gabion

baskets, and will be graded to a similar level. It will therefore not alter the cross section of the river. The location of the works are also out with the fluvial (river) flood plain. It is therefore considered that the flood risk following construction of the proposed works will be neutral in comparison to the existing flood risk. Following consultation, DFI Rivers stated that the predicted 1 in 200 year coastal flood level at this location is +2.56mOD Belfast, and noted that the level of the proposed path remains the same as the existing path. DFI Rivers are content with the proposal. The proposal therefore is in general compliance with Policy FLD 1 of PPS 15.

Integration and Design

- 8.7 Policy CTY 1 of PPS 21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate into its setting, respect rural character, and be appropriately designed. As noted above, the principle of development is considered acceptable on this site. The proposed soft engineering solution involves the provision of a grass embankment with erosion control matting to replace the existing damaged wall. The reprofiled embankment will be planted with a native grass species and will successfully integrate into its surroundings, given the existing areas of open space immediately adjoining the site.
- 8.8 The proposed design as a re-profiled grass embankment is considered acceptable for the area, and has been conceived to promote natural protection to coastal erosion through a proposed biodegradable erosion control blanket and hydro seeding.

Natural Heritage

- 8.9 Proposals should be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. Proposals should respect local architectural styles and patterns as well as local materials, designs and colour. In terms of siting, design, scale and massing, the proposal is considered sympathetic to this AONB location. It also respects local styles and patterns and conserves features of importance to the character, appearance or heritage of the landscape within proximity of the site. The proposal therefore is in compliance with Paragraph 6.187 of the SPPS and Policy NH 6 of PPS 2.

Demolition in the Conservation Area

8.10 The application was submitted in tandem with an application for demolition consent which is being processed by the Department for Infrastructure. Policy BH 14 of PPS 6 advises that in exceptional cases the presumption against the grant of planning permission or conservation area consent may be overridden in favour of development which is desirable on the ground of some other public interest. Consultation was carried out with the Conservation Officer who has no objections to the proposal as it will visually integrate into the landform and due to the necessity of the development for appropriate sea defence of the area. Given the nature of the proposal it is considered that the proposed embankment complies with Policy BH 12, and BH 14 of PPS 6.

Habitats Regulation Assessment

8.11 The potential impact of this proposal on Special Areas of conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

9.0 CONCLUSION

9.1 The proposal is considered acceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS. The proposed development will provide necessary sea defence repairs, and is both functionally and visually acceptable, together with improving the amenity of the area through an environmentally sustainable solution. Approval is recommended.

10 Conditions

10.1 Regulatory Conditions:

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

Reason: Time Limit.

2. The development hereby permitted shall not become operational until effective vehicle wheel washing facilities have been installed and brought into operation for the lifetime of the development approved.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

3. A detailed programme of works and any required / associated traffic management proposals shall be submitted to and agreed by DFI Roads, prior to the commencement of any element of road works.

Reason: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety.

4. A detailed Construction Method Statement (CMS) shall be agreed with NIEA and Causeway Coast and Glens Borough Council Planning on award of the work contract and prior to works beginning.

Reason: To protect Red Bay SAC from any potential adverse impacts during the construction works.

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

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

6. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division 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.

10.2 Informatives:

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
kill, injure or take any wild bird; or
take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
at any other time take, damage or destroy the nest of any wild bird included in Schedule A1;
or
obstruct or prevent any wild bird from using its nest; or
take or destroy an egg of any wild bird; or
disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
disturb dependent young of such a bird.
Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

4. The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*);
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to:
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast. BT7 2JA. Tel. 028 905 69551. There is no provision within the legislation to issue licences to kill otters for the purpose of development.

5. The applicant should refer and adhere to the precepts contained in Standing Advice Note No. 4. Pollution Prevention Guidance, 5. Sustainable Drainage Systems and 11. Discharges to the Water Environment. Standing advice notes are available at:
http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm
6. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short

snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*). Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to marine national protected species.

7. Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5¹) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection. Under Article 13 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time. Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence. If there is evidence of Schedule 5 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

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

8. If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.
9. A new marine construction licence has been submitted for the revised proposal. The applicant's attention is also drawn to

the following links which provide advice to be considered:
Planning in the Coastal Area
<https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effectwater-environment-including-groundwater-and-fisheries>

10. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
11. Notwithstanding the terms and conditions of the Causeway Coast and Glens Borough Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructures consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DFI Roads Section Engineer whose address is Jobs & Benefits Office, 37 - 45 John Street, Ballymoney, BT53 6DT. A monetary deposit will be required to cover works on the public road.
12. All construction plant and materials shall be stored within the curtilage of the site.
13. The applicant should contact the Department for Infrastructure Roads Maintenance Section at Jobs & Benefits Office, 37 - 45 John Street, Ballymoney, BT53 6DT in order that an agreement may be reached regarding maintenance costs and incurred expenses in consequence of any damage caused to the public road.
14. Under For guidance on the preparation of the Written Scheme and Programme of Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact:
Historic Environment Division – Historic Monuments
Causeway Exchange, 1–7 Bedford St. Belfast, BT2 7EG
Tel: 028 9082 3100
Quote reference: SM11/1 ANT020:017

Application for the excavation licence, required under the Historic Monuments and Archaeological Objects (NI) Order 1995, should be submitted at least 4 weeks before work is due to begin, by a qualified archaeologist responsible for the project, to:

Historic Environment Division – Historic Monuments Unit
Causeway Exchange, 1–7 Bedford St. Belfast, BT2 7EG

15. It is an offence for any person;
 - (a) to have in his possession or control,
 - (b) to transport,
 - (c) to sell or exchange, or
 - (d) to offer for sale or exchange,any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

16. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

Location Map 1:1250

