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| Planning Committee Report LA01/2018/1379/F | 27th March 2019 |
| PLANNING COMMITTEE | |

| Linkage to Council Strategy (2015-19) | |
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| 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 |

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| <u>App No:</u> | LA01/2018/1379/F | <u>Ward:</u> | PORTRUSH and DUNLUCE |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | Lands approximately 97m West of 48 Eglinton Street on the Westbay Green, Portrush, BT56 | | |
| <u>Proposal:</u> | Infilling of existing hard landscaping zone with bulk fill, top soil and turf to create green landscaping area to match surroundings. Minor infrastructure improvement works to existing tarmac maintenance roads within green area. | | |
| <u>Con Area:</u> | N/A | <u>Valid Date:</u> | 09.11.2018 |
| <u>Listed Building Grade:</u> | N/A | | |
| Applicant: | Causeway Coast and Glens Borough Council | | |
| Agent: | N/A | | |
| Objections: 0 | Petitions of Objection: 0 | | |
| Support: 0 | Petitions of Support: 0 | | |
| Non-committal: 1 | | | |

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

1.0 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 reasons set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is located at Lands approximately 97m West of 48 Eglinton Street on the Westbay Green, Portrush. The site contains a large open grass area and is in close proximity to the Portrush coastline. At the centre of the site is a lower grass area and there is a difference in ground level of approximately 1-1.5m from the topography of the rest of the site which is generally flat. There is a footpath which cuts across the site in a north-west direction. To the east of the site is a large car park area and vehicle access is gained to the site via a tunnel access from the Portstewart Road. There are existing train tracks to the east of the site and a single-storey pumping station/toilet block building to the south. The Promenade runs parallel to the site to the west.
- 2.2 The area is of a mixed use and is characterised by residential elements consisting apartments and residential dwellings. There are a number of commercial and retail properties in the immediate context such as fast food outlets, amusement arcades, coffee shops, cafes and public houses. The area is near the coastline and West Strand beach. There are Council facilities and sites within the immediate context.
- 2.3 The site falls within the defined development limit of Portrush as defined under the Northern Area Plan (NAP) 2016. The site falls within a designated major area of open space and falls within the West Bay LLPA. The site is located in close proximity to the Skerries and Causeway SAC and the Portrush West Strand ASSI. The Skerries and Causeway SAC is designated for sandbanks which are slightly covered by sea water all the time,

reefs, submerged or partially submerged sea cliffs and Harbour Porpoise. The Portrush West Strand ASSI is primarily designated for earth science features.

3.0 RELEVANT HISTORY

C/2005/1108/CD- Land along The Promenade, Portrush, adjacent to Brookvale Terrace- Construction of a new Water Service pumping station and Coleraine Borough Council toilet block- Construction of a new Water Service pumping station and Coleraine Borough Council toilet block- Approval: 21.03.2006.

4.0 THE APPLICATION

4.1 The application is for the infilling of the existing hard landscaping zones with bulk fill, top soil and turf to create green landscaping areas to match surroundings and minor infrastructure improvement works to existing tarmac maintenance roads within green area. The proposed vehicle and pedestrian footways will be finished with bullnose kerbs, laid flush and asphalt. Three drainage channels will be located at the centre section of the site and the existing path will be protected during construction works. 3 vehicle access points will be removed and 2 removable posts installed to the south of the site.

4.2 Two removable vehicle access posts will be installed to the east of the site. The concept of the scheme is to enhance the visual appearance of this site in preparation of the British Open in 2019.

4.3 Habitats Regulations Assessment

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 as any potential impact would be as a result of construction works which can be appropriately mitigated.

5.0 PUBLICITY & CONSULTATIONS

5.1 External:

One non-committal letter has been received with this application. The points raised are:

- The proposal is long overdue
- Council should erect a foundation to support a temporary stage for future events.

5.2 Internal:

DFI Roads: No objections.

NI Water: No objections.

Environmental Health: No objections.

Historic Environment Division- Protecting Historic Monuments and Buildings: No objections.

NIEA- Coastal Development Unit, Drainage and Water Unit, Land, Soil and Air Unit and Natural Heritage and Conservation Areas Unit: No objections

Shared Environmental Services: No objections.

6.0 MATERIAL CONSIDERATIONS

6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

- Northern Area Plan 2016 (NAP)

- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

A Planning Strategy for Rural Northern Ireland

Strategic Planning Policy Statement (SPPS) 2015

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 8: Open Space, Sport and Outdoor Recreation

Supplementary Planning Guidance

Development Control Advice Note 15 Vehicular Access Standards

8.0 CONSIDERATIONS & ASSESSMENT

Planning Policy

- 8.1 The application site is located within Portrush settlement development limit. The site is zoned as an area of major open space and is within the West Bay LLPA (PHL 02) of NAP.
- 8.2 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above. The main considerations in the determination of this application relate to: principle of development; visual impact; open space; access and parking, and; natural heritage.

Principle of Development

- 8.3 The proposed development is for infilling of existing hard landscaping zones with bulk fill, top soil and turf to create green landscaping areas to match surroundings. Minor infrastructure improvement works to existing tarmac maintenance roads within green area. The scheme will provide infilling of two existing sections of land located centrally on site. The existing footpaths on site will be resurfaced and the existing maintenance roads will be resurfaced with tarmac and new access posts inserted on site. The site will retain the existing open space zoning on site and aims to upgrade the existing open space, in compliance with the policy objectives within PPS8, Policy 0S1.

Visual Impact

- 8.4 Policy DES2 of the Planning Strategy for Rural Northern Ireland requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.
- 8.5 Permission will be granted where the proposal can be visually integrated into the surrounding context and will not have a negative impact on the visual amenity of the area. Paragraph 4.12 of the SPPS states that amenity considerations in terms visual intrusion is of prime importance. The proposed scheme

will enhance the existing site which is in part in a state of disrepair. Therefore, the proposed scheme complies with this policy and will enhance the character of the site. Visual amenity will not be impacted upon as a result of the proposed development. There will be no loss of open space on site nor will the development affect any protected designations within or adjacent to the site.

- 8.6 The design of the scheme is simple but effective in nature and proposes minimal changes which will enhance the character of the site. No buildings or permanent structures have been proposed. The revised infrastructure and subtle changes in the form of resurfacing, part infilling and the insertion of access posts will enhance security on site. The scheme is in compliance with paragraph 4.27 of the SPPS in terms of design.

West Bay Local Landscape Policy Area- LLPA

- 8.7 The site falls within the West Bay LLPA as designated under the NAP 2016. The policy states that landscape features contribute to the environmental quality, integrity and character of this LLPA. This LLPA includes Mill Strand, also known as West Strand and the related slopes behind the beach including the railway embankment. The area is mostly in public ownership and is dominated by the natural environment and amenity open space. The sites lies adjacent to the Portrush West Strand ASSI.
- 8.8 The policy will seek to maintain the integrity of this open area, by protecting it from any development other than refurbishment or modest extensions to the two existing buildings, and thereby maintain the outstanding vista of the Peninsula, across West Bay from the western approaches to Portrush. As clearly highlighted above the scheme proposes a refurbishment of the existing open space area and will enhance it by adding to the existing open space by infilling the central part of the site which is in compliance with the designations under the NAP 2016. The proposed development is in compliance with the policy as outlined under the West Bay LLPA policy.

Access and car parking

- 8.9 The proposed scheme will not result in the loss of car parking and will not create a road safety or pedestrian safety issues. DFI Roads has raised no concerns regarding road safety, access matters or parking. The proposed scheme complies with PPS3.

Natural Heritage

- 8.10 The site is located directly adjacent to the Portrush West Strand ASSI and therefore without appropriate mitigation has the potential to cause impacts during the construction phase. The applicant submitted a Habitats Regulation Assessment. The HRA has demonstrated that appropriate mitigation measures will be implemented during the construction phase to ensure the proposed development will not impact any protected species of designated sites in close proximity to the site. NIEA and SES have been consulted in relation to the scheme and have stated that that they have no objection to the proposed development following the submission of the HRA. The Skerries and Causeway SAC is located 90m away from the site, as all construction works will remain within the confines of the site the proposed development will not impact any of the surrounding protected designations. The scheme will not have a negative impact on protected species or surrounding designated sites.

9 CONCLUSION

- 9.1 The proposal is considered acceptable at this location for a having regard to the Northern Area Plan 2016 and other material considerations. The scheme proposes a subtle and simple design which enhances the existing open space provision on site and improves the visual context of the area. Approval is recommended.

10 CONDITIONS

- 10.1 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.

- 10.2 A suitable barrier shall be erected around the works site prior to commencement of construction. The barrier shall be adequate to prevent egress of water from the construction site into Portrush West Strand ASSI and shall be removed upon completion of all construction activities.

Reason: To prevent any adverse impacts on the Portrush West Strand ASSI during the construction phase.

- 10.3 The barrier shall be de-watered prior to use of wet concrete onsite and all water contained thereafter shall be collected for treatment prior to disposal. At no point shall water be discharged from the site into Portrush West Strand ASSI during construction.

Reason: To prevent any adverse impacts on the Portrush West Strand ASSI during the construction phase.

- 10.4 A suitable buffer of at least 10m must be maintained between the locations used for refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and Portrush West Strand ASSI.

Reason: To prevent any adverse impacts on Portrush West Strand ASSI during the construction phase.

- 10.5 There shall be no direct discharge of untreated surface water run-off during the construction and operational phases into Portrush West Strand ASSI.

Reason: To prevent any adverse impacts on Portrush West Strand ASSI during the construction phase.

11 INFORMATIVES

- 11.1 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.
- 11.2 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.
- 11.3 This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent sites for the removal of or building on the party wall or boundary whether or not defined.
- 11.4 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.
- 11.5 DfI Roads advise the following:

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 Infrastructure's 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 DfI Roads, Northern Division, Causeway Coast and Glens (West), County Hall, Castlerock Road, Coleraine, BT51 3HS. A monetary deposit will be required to cover works on the public road.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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

11.6 NI Water advise the following:

A formal water connection application must be made for all developments, including those where it is proposed to re-use existing connections.

The applicant is advised to contact NIW Waterline on 03457 440088 or waterline@niwater.com, upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Waterline on 03458770002.

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

A formal water / sewer connection application must be made for all developments, including those where it is proposed to re-use existing connections.

Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland). Applicants should contact NI Water's Water Fittings Regulations team via waterline@niwater.com if they have any queries.

11.7 NIEA advise the following:

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an

offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

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

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 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 time². 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.

¹ Common skate and angel sharks in respect to Article 10 (1) only and within 6 nautical miles of coastal water only.

² Schedule 7 species includes all Schedule 5 species listed in Appendix A, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species.

- (1) It is also an offence to;
 - (a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - (b) deliberately disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) impair its ability to hibernate or migrate;
 - (c) deliberately take or destroy the eggs of such an animal;
 - (d) deliberately obstruct access to a breeding site or resting place of such an animal; or
 - (e) damage or destroy a breeding site or resting place of such an animal.

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

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.

¹ Following two European Court of Justice cases (C-103/00 and C-221/04) “deliberate actions are to be understood as actions by a person who knows, in the light of the relevant legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action”

http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf

The applicant’s attention should be drawn to standing advice on pollution prevention.

Planning in the Coastal Area

<https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>

All infill material must be strictly inert.

The applicant must refer and adhere to the relevant precepts in Standing Advice on Pollution Prevention Guidance.

The applicant should refer and adhere to all the relevant precepts contained in Standing Advice Note Discharges to the Water Environment. The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

Conviction of such an offence may incur a fine of up to £20,000 and/or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

It is assumed that the 'bulk fill, top soil and turf' mentioned in the proposal is controlled waste. It is further assumed that this waste material is to be brought onto the site.

The use of this waste material will require a waste management authorisation. Guidance can be found on the following link:

<https://www.daera-ni.gov.uk/topics/waste/waste-managementlicensing-exemptions>.

The applicant may wish to contact Regulation Unit for further advice and guidance.

The applicant also should refer and adhere to the precepts contained in the following Standing Advice documents: Pollution Prevention Guidance, Sustainable Drainage Systems and Discharges to the Water Environment.

Standing advice notes are available at:

<https://www.daera-ni.gov.uk/articles/standing-advice-0>

Site Location Map



