

Addendum 4

LA01/2016/1328/F

1.0 Update

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

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

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

- 1.9 Additional planning conditions should be included in any permission granted as detailed below to protect residential amenity:

The development shall not become operational until a 2m high acoustic fence and a 1m high earth bank acting as an acoustic bund is constructed in accordance with and at the locations detailed within Drawing No. 57B date stamped 29th July 2020. The 2m high acoustic timber barrier shall have a surface weight of not less than 15kg/m², be of continuous, solid construction (i.e. no holes or gaps at the bottom for sound to pass through), and so if it is a fence it should be of ship-lapped design. This acoustic barrier shall be maintained in perpetuity with the lifetime of the development.

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

2.0 Recommendation

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