

<b>Planning Committee Report Reference: LA01/2018/1167/F</b>	<b>17<sup>th</sup> April 2019</b>
<b>PLANNING COMMITTEE</b>	

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

<b><u>App No:</u></b>	<b>LA01/2018/1167/F</b>	<b><u>Ward:</u></b>	<b>Portstewart</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Lower Level of Promenade Opposite No. 62 The Promenade, Portstewart, BT55 7AE</b>		
<b><u>Proposal:</u></b>	<b>Proposed 4 No. Retail Units and 3 No. Cafe Units and associated works to the promenade lower level.</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>02.10.2018</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>Target Date:</u></b>	
<b>Applicant:</b>	<b>Portrush Lofts Ltd, 23 - 25 Queen Street, Coleraine, BT52 1JF</b>		
<b>Agent:</b>	<b>Shane Birney Architects, 7-9 Stone Row, Coleraine, Building 80 / 81 Ebrington, Derry, BT47 6FA</b>		
<b>Objections:</b>	<b>6</b>	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b>	<b>0</b>	<b>Petitions of Support:</b>	<b>0</b>

Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://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 **REFUSE** planning permission subject to the reasons set out in section 10.

## **2.0 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located at the Lower Level of the Promenade opposite No. 62 The Promenade, Portstewart. The site is rectangular in shape and comprises an area under the road/pavement that forms the Promenade. It is adjacent to the walkway linking the Crescent with the Harbour area. The site is located north east of the playground and east of the beach/sea with views over to Magilligan Point and Donegal. Access to the site would be via the existing walkway which pedestrians can reach by dismounting existing steps from the pavement of the Promenade.
- 2.2 The development limit runs along the townside of the road. The site is located under the Promenade outside of the development limit. The site falls within Portstewart Point Local Landscape Policy Area (LLPA). There is a mix of uses along the Promenade with various shops along the frontage and residential use located above.

## **3.0 RELEVANT HISTORY**

- 3.1 No relevant planning history exists on the application site.

## **4.0 THE APPLICATION**

- 4.1 Full planning permission is sought for Proposed 4 No. Retail Units and 3 No. Cafe Units and associated works to the promenade lower level.

## **5.0 PUBLICITY & CONSULTATIONS**

### **5.1 External:**

6 letters of objection have been received in relation to this application. The main issues raised are summarised below and will be considered and assessed in the remainder of this report.

- Vulnerability to flooding in severe weather. During storm and windy conditions, the site floods but stones and large boulders can also be thrown onshore in this very area. The sea has flooded the main Promenade before.
- Health and Safety concerns
- Sewage and waste disposal issues
- Lack of emergency and delivery vehicle access
- Position of flues could impact pedestrians walking promenade due to smells
- No further development allowed in LLPA – PTL 02 Portstewart Point.
- Parking concerns
- Development of this site could affect the stability of existing properties that do not have present day foundations as well as the existing retaining wall  
(This would be a civil matter between the developer and property owners.)
- Certificate of ownership queries  
(The agent confirmed that the land ownership is correct and Certificate A has been signed. Further information dated 29<sup>th</sup> November 2018 was submitted as evidence.)

### **5.2 Internal:**

Environmental Health: No objections.

NI Water: No objections.

DAERA: Water Management Unit: No objections.

DAERA: Marine and Fisheries Division: Object.

DFI Rivers: Additional information required.

DFI Roads: Additional information required.

Shared Environmental Services: Additional information required.

## **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

Strategic Planning Policy Statement (SPPS)

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 15: Planning and Flood Risk

PPS 16: Tourism

PPS 21: Sustainable Development in the Countryside

### **Supplementary Planning Guidance**

DCAN 4 – Restaurants, Cafes and Fast Food Outlets

DCAN 15 - Vehicular Access Standards

## **8.0 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 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, Retail/Café use, tourism, visual impact, flooding, natural heritage and access.

### **Principle of Development**

- 8.2 The application site falls just outside the settlement limit of Portstewart and the town centre designation for Portstewart under NAP 2016. The town centre zoning is around the existing properties along the promenade however, the public road is not included so the application site is not under this designation. The proposal therefore falls within the countryside so Policy CTY 1 of PPS 21 must be considered. Non-Residential Development would be applicable for this application.

## **Retail/Café use**

- 8.3 The proposal consists of 4 No. Retail Units and 3 No. Cafe Units and associated works to the promenade lower level so consideration of the SPPS is necessary for this land use.
- 8.4 The SPPS has sustainable development at its heart and provides a strategic overview for a wide range of planning matters. Paragraph 6.270 advises the aim of the SPPS is to support and sustain vibrant town centres through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions consistent with the RDS.
- 8.5 Paragraph 6.279 of the SPPS states “Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. All policies and proposal must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment and meet the requirements of policy elsewhere in the SPPS.”
- 8.6 The proposal is not compliant with the thrust of town centre and retailing policy as it proposes commercial uses outside the town centre zoning in new premises. The proposed café and retail units are not appropriate uses for location in the countryside.
- 8.7 In addition, the site is located within the Portstewart Point LLPA (PTL 02) whose features are the prominent headland boldly defining the northern end of Portstewart Bay. The proposal for 7 units in this area is not acceptable as no further development is appropriate for this area.

## **Tourism**

- 8.8 The agent has submitted a Tourism need statement in support of this scheme so consideration of PPS 16 is relevant. This policy defines a Tourism Development as “Development of a tourist amenity or tourist accommodation” and a Tourist Amenity as “An amenity, facility or service provided primarily for tourist, but does not include tourist accommodation”. This proposal is for 4 retail units and 3 café units which are commercial uses so it is not a tourism development or tourist amenity as defined. Therefore, no policies within PPS 16 fall for consideration.

## **Visual Impact**

- 8.9 The proposal consists of 4 No. Retail Units and 3 No. Cafe Units and associated works to the promenade lower level. Floor plans show each café having a food prep/counter area, disabled wc and seating. Retail units have vacant space and a disabled wc. The front elevation of the units will be depicted by an entrance door and fully glazed frontage. Materials will be aluclad doubled glazed windows and doors and corten steel protective shuttering.
- 8.10 As the site is designated as countryside Policies CTY 13 and CTY 14 of PPS 21 apply. Policy CTY 13 refers to integration and design of buildings in the countryside. The development site of the existing prominent basalt retaining wall is considered a prominent feature in the landscape as this area forms part of the existing LLPA which should be protected. Policy CTY 14 refers to rural character but less weight is attributed to this policy due to the site specific location of the development immediately adjacent to the settlement limit of Portstewart and just outside the town centre designation. The context of the site is therefore more urban in nature than rural in character.
- 8.11 Policy DES 2 of “A Planning Strategy for Rural NI refers to Townscape and is relevant for consideration. Development proposals in towns and villages should 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.

- 8.12 The proposal is unacceptable visually as it detracts from the character and appearance of the existing properties along the promenade. The promenade has been designated under Policy PTP 02 in NAP 2016 and proposals for redevelopment or refurbishment on the promenade will not be permitted unless they respect the height, scale, proportions and rhythm of the street frontage, incorporating where appropriate, features characteristic of the streetscape. This proposal albeit located on the lower level of the promenade would contrast from this guidance due to its modern appearance and unique location. Policy PTS 01 relating to Portstewart Town Shop Fronts details how shop fronts should reflect scale and design of other buildings and the setting of the streetscape.
- 8.13 The proposed development is considered to be visually dominant in the streetscape when viewed in connection with the existing properties along the promenade. These properties are generally traditional in design with the fenestration having a strong vertical emphasis and regular rhythm with a good ratio of solid wall to opening ratio. The proposal consisting of large areas of glazing would portray a more horizontal emphasis which is not characteristic of the properties along the promenade. Critical views of the site would be from the sea, beach, lower walkway and the Crescent area located south west of the site. Portstewart promenade is a highly trafficked area in terms of traffic and pedestrians so this site with a location adjacent to a public walkway would be certainly viewed by tourists.
- 8.14 The site falls within Portstewart Point LLPA (PTL 02) whose features are the prominent headland boldly defining the northern end of Portstewart Bay. The modest car park, access road and small coastguard look out building do not significantly detract from its natural grandeur. Policy ENV 1 of NAP 2016 applies for LLPAs and development proposals must not adversely affect the environmental quality, integrity or character of a designated LLPA. The proposal for 7 units in this area is not acceptable as no further development is appropriate for this area. This LLPA extends over a large area but the whole length in front of the promenade is included so it is worthy of protection from inappropriate development.
- 8.15 The townscape of Portstewart is characterised by its Promenade and distinctive shoreland. Policy CTY 15 of PPS 21 refers to the



setting of settlements. Under Justification and Amplification paragraph 5.84 states “The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside”. The basalt Promenade is a distinctive feature of the setting of the town. Development and its replacement with a carten steel structure would be unsightly and detrimental to the setting and character. The basalt wall and promenade are such a distinctive feature, this proposal would mar the setting of Portstewart and further extend development towards the coast which would be detrimental to its setting contrary to Policy CTY 15 of PPS 21.

## **Flooding**

- 8.16 Due to the site location adjacent to the sea, consultation occurred with DFI Rivers. The site lies within the 1 in 200 year coastal flood plain. The Q200 coastal level at this location 3.27m OD Belfast. This figure does not take into account climate change or wave action. The retail and café units have a finished floor level of 2.4m. Policy FLD 1 of PPS 15 will not permit development within flood plains unless it meets the “Exceptions Test”.
- 8.17 The proposal fails to meet with any exception detailed in Policy FLD 1 of PPS 15. The site is adjacent to the sea/beach except for a walkway. This area has been subject to flooding in extreme weather – photographs taken on 12<sup>th</sup> March 2009 confirm this so the proposal may be dependent on the provision of new coastal flood defences as a result of climate change. The site may be in an area that potentially could be at risk from coastal erosion or land instability. The agent has not demonstrated that the application falls within one of the exceptions and no flood risk assessment has been submitted. Although a Tourism need statement has been submitted in support of this application, the proposal is not considered to be of overriding regional or sub-regional economic importance to allow development within the flood plain. The proposal is therefore contrary to Policy FLD 1 of PPS 15
- 8.18 A designated culverted watercourse known as Town Stream flows through the site. A working strip of minimum width 5m should be retained and shown on plans to comply with Policy FLD 2 of PPS 15. It is unclear if any modification to the watercourse is proposed.

The proposal fails to meet the requirements of Policies FLD 2 and FLD 4 of PPS 15 due to lack of information provided.

### **Natural Heritage**

- 8.19 The application site is within close proximity to the Skerries and Causeway SAC which is designated for sandbanks which are slightly covered by sea water all the time, reefs, submerged or partially submerged sea cliffs and Harbour porpoise. Consultation occurred with DAERA: Marine and Fisheries Division and on the basis of the information provided does not consider this proposal to be a viable long-term option at this specific location.
- 8.20 The red line boundary of the site is directly adjacent to the marine environment. During storm events, waves, stones and marine debris do reach this level of the coast. With an increasing number of storm events and sea level risk, the proposed development may come under threat from the sea in the future.
- 8.21 The proposed development may be contrary to the SPPS which states in section 3.13 that “The planning system should therefore help to mitigate and adapt to climate change by....avoiding development in areas with increased vulnerability to the effects of climate change, particularly areas at significant risk from flooding, landslip and coastal erosion an highly exposed sites at significant risk from impacts of storms.”
- 8.22 There is concern from potential noise disturbance as this could impact on marine animals. If blasting or piling works are required a wildlife licence may be required.
- 8.23 Consultation also occurred with Shared Environmental Services in relation to this application. Further information is required to enable completion of the Habitats Regulations Assessment such as a Construction Method Statement and detailed drawings illustrating all hard standing areas zoned for the storage of fuels/oils/spoil/materials etc and any other activities likely to present a contamination risk to the marine environment.
- 8.24 The application is considered contrary to Policies NH 1 and NH 2 because sufficient details have not been provided to demonstrate that this proposal does not harm the Skerries and Causeway SAC

which is located north of the site or marine mammals within the sea.

- 8.25 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 through lack of submission of detailed information would be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Access**

- 8.26 On consultation with DFI Roads there are serious concerns in relation to the proposed structure below a public road. The documents submitted are not acceptable as sufficient detail has not been given. Issues that require consideration are as follows:

- The position of existing services in the road and how the applicant proposes to divert or accommodate them
- Street lighting – how these are to be secured in the area of the proposed structure
- Construction plan detailing how the project is to be built and the timing of different phases etc.
- Detailed traffic management plan for construction period
- Cross section detail of the structure in relation to existing road and services
- Design detail of the structure for the appropriate loading to comply with DMRB
- Parking provision
- Service vehicle access
- Drainage from the structure and from the road adjacent to the structure
- Storm protection detail
- Ventilation and extraction system outlet positions

- 8.27 The proposal is therefore considered unacceptable in terms of Policy AMP 2 and AMP 7 of PPS 3 and DCAN 15 as the agent has not demonstrated that the proposal is satisfactory in terms of the existing Protected Route and in terms of car parking and servicing

arrangements due to lack of submission of detailed information to address all of DFI Roads concerns.

## **9.0 CONCLUSION**

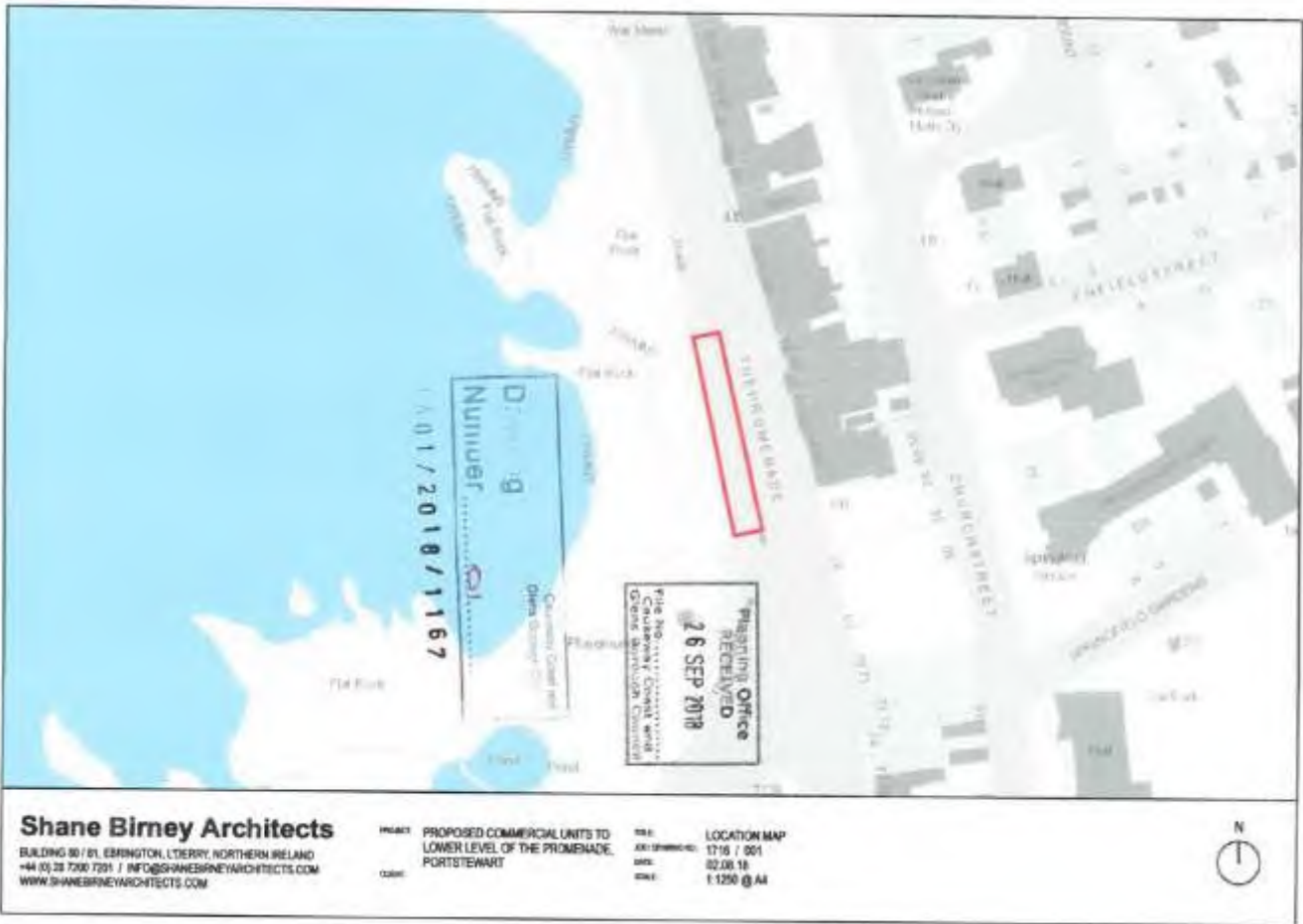
9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS. The proposal is unsustainable and fundamentally unacceptable as it is located within a coastal flood plain, is not considered to be an exceptional case, and is contrary to PPS 15. The proposal is contrary to PPS 2 as there are natural heritage concerns in terms of harming the Skerries and Causeway SAC and protected species and information has not been submitted to enable a Habitats Regulations Assessment to be carried out. The proposed land use for retail and café units is unacceptable in this countryside location as this type of land use should be directed to town centres in the first instance to protect the vitality and viability of the town. The design of the scheme is visually unacceptable and will detract from the character and appearance of the existing properties along the promenade, contrary to Policy CTY 13 of PPS 21, and Policy DES 2 of A Planning Strategy for Rural NI. The proposal would have a significant detrimental impact on the setting of Portstewart and is contrary to CTY 15 of PPS 21. The proposed scheme results in development within the Portstewart Point LLPA which is contrary to Policy ENV 1 of NAP 2016. The proposal through lack of submission of information is contrary to PPS 3 and DCAN 15 in terms of access to the public road, car parking and servicing arrangements. Objectors have raised various concerns detailed under paragraph 5.1. However, the application is unacceptable for the reasons explored throughout this report. Refusal is recommended.

## **10.0 REFUSAL REASONS**

1. The proposal is contrary to paragraphs 3.13 and 6.107 of the SPPS and Policy FLD 1 of Planning Policy Statement 15 “Planning & Flood Risk” in that the proposal is unsustainable and located within an area of identified flood risk and the proposal does not merit being considered as an exceptional case as described in the policy.

2. The proposal is contrary to paragraphs 6.123 and 6.125 of the SPPS and Policies FLD 2 and FLD 4 of PPS 15 “Planning and Flood Risk” in that it has not been demonstrated that the proposal is satisfactory in terms of protection of flood defence and drainage infrastructure and artificial modification of watercourses due to lack of sufficient details being provided.
3. The proposal is contrary to Policies AMP 2 and AMP 7 of PPS 3 “Access, Movement and Parking” and DCAN 15 “Vehicle Access Standards” as it has not been demonstrated that the proposal is satisfactory in terms of the existing Protected Route and car parking and servicing arrangements due to lack of submission of detailed information to address all of DFI Roads concerns.
4. The proposal is contrary to paragraphs 6.177 and 6.180 of the SPPS and Policies NH 1 and NH 2 of PPS 2 “Natural Heritage” in that it has not been demonstrated that the proposal would not harm the Skerries and Causeway SAC and protected species as sufficient information has not been provided to enable a Habitats Regulations Assessment to be completed.
5. This development adversely affects the environmental quality, integrity or character of a designated LLPA and is contrary to Policy ENV 1 of NAP 2016 as no further development is appropriate in Portstewart Point LLPA (PTL 02).
6. The proposal is contrary to paragraph 6.279 of the SPPS in that the site lies outside the town centre location; there is no defined local need which cannot be met by existing shopping facilities in the area or through the use of existing vacant or other more suitable properties; and the proposed use is not suitable for outside a settlement area.
7. The design of the proposed commercial units are contextually inappropriate and would harm the character and appearance of the area in particular the existing properties located along the promenade and the setting of Portstewart contrary to Policies CTY 13 and CTY 15 of PPS 21 “Sustainable development in the Countryside” and Policy DES 2 of “A Planning Strategy for Rural Northern Ireland”.

# Site Location Map



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PROJECT: PROPOSED COMMERCIAL UNITS TO LOWER LEVEL OF THE PROMENADE, PORTSTEWART

FILE NO: 1715 / 001  
 DATE: 02.08.18  
 SCALE: 1:1250 @ A4

