

ITEM D

**Lands located North of Bann
Road East/S.East of
Ballmaconnelly Road
West/S.West of Finvoy Road and
North/N.West of Moneyleck Road
Rasharkin - approx 200m E of No
41 Ballymaconnelly Road
Rasharkin**

D/2014/0181/F

Full Planning

27 May 2015

<u>No:</u>	D/2014/0181/F	<u>Ward:</u> The Vow
<u>App Type:</u>	Full Planning	
<u>Address:</u>	Lands located North of Bann Road East/S.East of Ballmaconnelly Road West/S.West of Finvoy Road and North/N.West of Moneyleck Road Rasharkin - approx 200m E of No 41 Ballymaconnelly Road	
<u>Proposal:</u>	Construction and operation of a Solar Farm with a total generating capacity of 18MW development comprises photovoltaic solar panels, mounting frames, 1 no substation, 18 no inverter substations, 15 no CCTV cameras (3m high), and ancillary construction works including, perimeter securing fencing (2.4m high), new road access, internal service tracks and 2 no temporary construction compounds	
<u>Con Area:</u>	N/A	<u>Valid Date:</u> 26 September 2014
<u>Listed Building Grade:</u>	N/A	<u>Target Date:</u>
<u>Agent:</u>	Paul McKernan RPS, Elmwood House, 74 Boucher Road Belfast	
<u>Applicant:</u>	Elgin Energy Esco Ltd C/o Agent	
<u>Objections:</u> 1	<u>Petitions of Objection:</u> 0	
<u>Support:</u> 0	<u>Petitions of Support:</u> 0	

Drawings 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 section 7 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site extends to approximately 39.05 hectares located to the east of Rasharkin village, covering 19 agricultural fields (with intersecting hedgerows)

most of which consists of fairly good quality pasture. The site incorporates lands located between the Finvoy Road to the east, the Bann Road to the south and the Ballymaconnelly Road to the north-west. Access is proposed from Bann Road and will require the creation of a new access. The Supplementary Planning Guidance referred to in Policy RE1 identifies the site as being within the northern extent of LCA 52 - Lower Bann Valley which is described as a gentle, flat landform comprising the floodplain of the Lower Bann River with isolated drumlins toward the outer fringes of the valley.

- 2.2 Due to the size of the site area the landscape differs over the extent of the site. However, the bulk of the site topography although gently undulating, is located at a level considerably below the level of the Finvoy Road (approximately 15 metres) and is set back at least 400m from the public road.
- 2.3 Approximately 320 metres of the southern portion of the site bounds the Bann Road, a section of which (less than half) incorporates land which rises fairly steeply over a short distance from the public road but is not visually linked with the remainder of the site. The remainder of land bounding Bann Road consists of fairly flat land extending to the north west. The most northern portion of the site is located within a fairly steeply undulating landscape but is located a considerable distance from the surrounding public road network. The site is bounded to the west by the Culmore River and is also affected by a Main trunk gas pipeline, known archaeology and protected species.
- 2.4 The wider locality is generally rural in character although the site is within the vicinity of Rasharkin village. This aside, the main built form within the immediate context of the site consists of individual dwellings and small farm holdings.

3.0 RELEVANT HISTORY

D/2012/0276/F

Proposal: Construction of a new 110 and 33kV substation, associated access road and 110kV and 33kV overhead lines

Address: approximately 300m west of no. 269 Finvoy Road, Rasharkin,
Ballymena, BT44 8SD,

Decision: Granted

Decision Date: 07.05.2014

4.0 THE APPLICATION

- 4.1 The application proposes the development of the identified site in order to create a solar farm consisting of an array of solar PV panels (approximately 72,000 panels in total with the potential to create 18 MW. Each module is mounted in a frame table 2m wide at an inclination of between 15 and 25 degrees with the higher edge extending to between 2.4m – 3.0m in height. Each row of panels will be at least 3m apart and in some instances greater than this and as such the agricultural land can remain. No concrete foundations are proposed with the frame posts driven into the ground. The proposal also includes PV inverter stations consists of small structures 3 metres in height (13 in total), perimeter fencing (2.4m paladin fencing), CCTV security cameras and access tracks (3.5m wide).
- 4.2 A 5m buffer between the proposed panels and perimeter fence to allow maintenance is proposed while a buffer between proposed fencing and existing hedgerow / trees is also proposed to ensure retention of these both around the site perimeter and existing field boundaries.
- 4.3 The proposal has a life expectancy of around 30 years during which time the land will remain and can continue to be used for agriculture (in the form of sheep grazing).

5.0 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: One (1) representation** has been received from TCI Renewables acting on behalf of Brockaghboy Windfarm Ltd **objecting** to the application for the following reason:

- The Windfarm (45mw) is at an advanced stage of grid connection reliant on the approved Mid Antrim Cluster Sub Station. The objection relates to the ability of NIE and Systems Operator for NI (SONI) to facilitate grid connections into and out of the substation due to the large area covered by the proposed solar panels in close proximity to the substation.

Internal:

5.2 **Transport NI:** No concerns subject to conditions

NIEA Natural Heritage: No concerns subject to conditions.

NIEA Historic Monument: No objection

DCAL Inland Fisheries Group: No objection,

NIW Strategic Applications: No objection

Environmental Health: No concerns with the proposal subject to conditions regarding noise levels of the development.

Rivers Agency: Has no objection

Belfast International Airport: Has no objection subject to condition

HSENI: No Objection

NIE: No Objection

6.0 **MATERIAL CONSIDERATIONS**

6.1 Article 45 of the Planning Act (Northern Ireland) 2011 states that, “where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.”

6.2 The development plan is:

- North East Area Plan 2002

- Draft Northern Area Plan 2016

6.3 The Regional Development Strategy (RDS) is a material consideration.

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**

PPS 1 General Principles

PPS21 – Sustainable Development in the Countryside -Policy CTY1.

Planning Policy Statement 18 – Renewable Energy Policy.

PPS2 – Natural Heritage

PPS 3 Access, Movement and Parking

PPS6 – Planning, Archaeology and the Built Heritage

PPS 15 Planning and Flood Risk

Supplementary Planning Guidance

Best Practice Guidance to PPS 18 – Renewable Energy

8.0 **CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to: the principle of the proposed development in this location; residential amenity; visual amenity and landscape character; biodiversity, nature conservation or built heritage interest; local natural resources; and public access to the countryside.

Planning Policy

8.2 The site is located within the rural area of Ballymoney as defined by the North East Area Plan and the draft Northern Area Plan 2016.

- 8.3 The principle of the type and scale of development proposed must be considered having regard to the PPS policy documents specified above and the Best Practice Guidance.

Principle of Development

- 8.4 The site is located within the rural area, PPS 18 provides a presumption in favour of development for renewable energy subject to it being demonstrated that the proposal will not have an unacceptable adverse impact on a number of criterion discussed below.

Public safety, human health, or residential amenity;

- 8.5 It is unlikely that this proposal would cause any significant risk to public safety or human health. Ballymoney Borough Council Environmental Health were consulted and recommend a condition to ensure that the sound levels as stipulated are not exceeded during construction at the site boundaries.
- 8.6 In terms of residential amenity, the proposed site is on existing agricultural land and all current boundaries both on the site perimeter and existing internal boundaries are to be retained. Many of the existing boundaries comprises a mix of native, fairly good quality hedgerows and mature trees. A number of residential properties exist within fairly close proximity of the proposed solar farm including No 94 and Nos 100 – 108 Bann Road to the south of the proposal (further properties exist on the opposite side of the road), Nos 35 – 41 & 49 Ballymacconnelly Road and 249 Finvoy Road. Remaining properties off Finvoy Road and Moneyleck Road separated from the proposal to a much greater degree. Although there is no specific separation distance to such a proposal outlined in policy or guidance, it is noted that only four properties fall within 100m of the proposal (Nos 100 (hall) & 102 Bann Road and Nos 39 & 41 Ballymacconnelly Road. Given the nature of the proposal and the existing field boundaries there is limited scope for intervisibility from and between existing dwellings as even the closest dwellings have intervening vegetation while topography limits wider views.

- 8.7 In Para 6.3.2 of the Best Practice Guidance to PPS 18 states that PV is particularly suited to the urban environment and is clean and silent in operation. Therefore located in this rural setting with the separation distance from residential properties it would appear that such proposals have little/minimal impact in terms of residential amenity. There are a number of structures located within confines of the site serving connection to the grid and also for management of the solar installation. These are located at 13 locations within the site and include 1 primary substation which is larger than the remainder of the structures. However this is a considerable distance from any existing dwellings and again these structures are unlikely to impact residential amenity.
- 8.8 The main potential impact on residential amenity would appear to be as a result of construction works, particularly from the temporary works compound in combination with the proposed access off Bann Road. Works will also be required on all boundaries to erect security fencing and CCTV cameras as well as within the site to provide the main access and access tracks.
- 8.9 The introduction of CCTV cameras may raise some concerns however these are directed towards the site and as such should not introduce a privacy issue.
- 8.10 The works compound is located in very close proximity to No 100 and 102 Bann Road however No 100 is not a residential property and the proposed access point is approximately 250m west of No 102. Transport NI has no objection to the access arrangements and the local Environmental Health Department has also proposed conditions limiting working hours during the construction phase in order to mitigate against any potential impact on residential amenity during this stage.
- 8.11 In terms of the potential impact of glint and glare on aviation aircraft and vehicular transport corridors a glint and glare assessment has been submitted to support this application which indicates that as the solar

panels are designed to absorb sunlight, there are no glint and glare issues. Belfast International Airport and Transport NI were consulted and offer no objection to the proposal.

Visual amenity and landscape character

- 8.12 The Supplementary Planning Guidance referred to in Policy RE1 identifies the site as being within the northern extent of LCA 52 - Lower Bann Valley which is described as a gentle, flat landform comprising the floodplain of the Lower Bann River with isolated drumlin hills toward the outer fringes of the valley.
- 8.13 In terms of visual impact such proposals can have a significant effect due to the height of the panels as well as the quite industrial and regimented nature of the structures, particularly within a rural landscape. However, Policy RE1 of PPS18 does state that the wider environmental, economic and social benefits of all proposals will be given significant weight in determining whether planning permission will be granted.
- 8.14 In terms of the wider environmental, economic and social benefits, the applicant has outlined the European Union targets regarding the reduction in energy use and reduction in greenhouse gases as well as local targets stating that the proposal will aid in meeting these wider governmental targets regarding renewable energy.
- 8.15 Travelling south along Finvoy Road from the junction with Ballymacconnelly, the proposal is generally well screened due to a mix of roadside and intermittent vegetation as well as topography of the road which rises very gently.
- 8.16 Continuing along Finvoy Road as far as No. 246 views of the site are very intermittent and generally long distance. Beyond the junction with Magheraboy Road the views of the site are entirely lost due to the extent of mature trees and vegetation.
- 8.17 As a public vantage point the Rasharkin cemetery represent the most critical views of the proposal. From the public road views will remain long

distance and fairly intermittent, a pattern which continues throughout Rasharkin village due again to the extent of mature vegetation coupled with the increasing built form as you approach and enter the village. The cemetery grounds affords the opportunity to have static and fairly open views across the proposed site (but not in its' entirety) and from a closer perspective than is possible from the public road. However, views do remain medium to long distance and due to the low lying nature of the landscape and the undulating topography which limits those portions of the site which are viewed together the visual impact is not so significant as to be fatal to the proposal.

8.18 On leaving Rasharkin village along Moneyleck Road views of the site are obscured by No 33 which consists of a large two storey dwelling and a number of farm buildings. Beyond this the Moneyleck Road falls considerably towards the junction with Bann Road. From here the site is set back one field length from the public road and views of the site are at a fairly oblique angle and considerably obscured due to mature trees along the field boundaries. Again due to the extent of mature vegetation, topography and the angle of view the proposal will be fairly imperceptible from Moneyleck Road.

8.19 Travelling west along Bann Road from the junction with Moneyleck Road the site will not be apparent until No 100 Bann Road which is a small hall. This is the only part of the site which is located on roadside lands and continues for approximately 300m. The first 100 metres along this stretch of the road views of the site are fairly open, even taking into consideration existing roadside vegetation, and the topography rises fairly steeply from the public road. However, this is compounded by the fact that the necessary access arrangements appear to require the removal of a considerable area of roadside vegetation over a much greater distance opening up views of this part of the site further. This particular element of the proposal has the most potential to have significant visual impact when viewed from the public road. In the short term this part of the site is to be utilised as the temporary site compound and will consist of a number of

temporary buildings which will have a significant visual impact. In the long term this part of the site will also be utilised for solar panels though the visual impact from the panels will be less than that from the temporary compound the panels will appear elevated over part of the site. However, views will generally be restricted to a portion of the south-eastern corner of the site and will not be read with the remainder of the proposal as a whole.

8.20 Travelling in the opposite direction along Bann Road the site is quite well screened up until the access to No 94 due mainly to the topography of the road as well as intermittent vegetation. Beyond this there will potentially be some open views of the site albeit not short distance and again only a portion of the site would be visible.

8.21 Travelling in either direction along Ballymaconnelly Road to the west of the site views of the site will be extremely limited and potentially the proposal will be imperceptible due in part to the oblique angle of view, the topography, intermittent vegetation and also the distance the site is back from the public road.

8.22 There will be a limited visual impact of the proposed substation, side substation, communications building, transformers, inverters and security cameras. It is considered that the fencing and solar panels will have the most impact in the front fields in particular. However, it is not anticipated that the landscape impacts are fatal to the proposal

8.23 The potential impacts on the landscape are described as reversible as the agent has indicated that the proposal has a lifespan of 30 years and the panelling and fencing can all be removed off site with no topographical changes taking place.

8.24 A Landscape and Visual Impact Assessment for this proposal was prepared and submitted with this application and includes a number of photo-montages of the proposal. The submission appears accurate and highlights a number of key views of the proposal from the public road network with the exception of those along Bann Road as highlighted above.

Biodiversity, nature conservation or built heritage interests

- 8.25 An ecological appraisal has been submitted which identifies the bulk of the site as being improved grassland with smaller areas of poor semi-improved grassland and semi-natural woodland on the north-western fringes of the site.
- 8.26 The site is also bounded by the Culmore River along the entire western boundary of the site, river corridors generally form important habitat. The assessment identifies a number of species (including some protected) and consultation with NIEA Natural Heritage has been carried out to assess the potential impact on biodiversity and nature conservation.
- 8.27 NIEA has identified the site as being hydrologically connected to the Bann Estuary Special Area of Conservation and Area of Special Scientific Interest (ASSI). However, they found that the proposal would have no likely significant effects on designated sites. However, due to the nature of species on site NIEA has proposed draft conditions and informatives to mitigate against any possible biodiversity concerns and to ensure compliance with PPS2: Natural Heritage.
- 8.28 An archaeological evaluation was prepared in support of this application. NIEA Historic Monuments have proposed conditions including the implementation of a developer-funded programme of archaeological works in order to identify and record any archaeological remains.

Local natural resources, such as air quality or water quality

- 8.29 In terms of the potential impact on pluvial ponding and soil scour due to runoff from the panels the agent has stated that there is zero pluvial ponding or surface run-off effects from Solar farms to existing waterways. The site is currently affected by both pluvial ponding and flooding and a Flood Risk Assessment has been provided.

8.30 NIEA Natural Heritage, NI Water, DCAL and Rivers Agency have all been consulted. NIW have raised no concerns with regard to any adverse impact on the water quality.

8.31 Rivers Agency and DCAL responded with no objection in principle providing all relevant statutory permissions for this development are obtained. In terms of air quality solar PV are seen as being 'clean' and will therefore have no impact on this natural resource. Within the submitted information it is also proposed to use the land to graze sheep, thereby enabling a dual use of the land.

Public access to the countryside

8.32 The proposal initially incorporated two access, one of which has been removed during the course of the application due to issues raised by Transport NI with only a new access proposed off Bann Road. Transport NI has been reconsulted and no objections raised in relation to the amendments.

Other Matters

8.33 A trunk gas pipeline traverses the site for which HSENI has confirmed a wayleave is in place. This will require the current applicant to consult with the gas pipeline operator during construction as well as the lifetime of the application to ensure any existing permissions to access the land and this pipeline as necessary are respected.

8.34 In relation to the objection, the Applicant and SONI have now held a number of meetings since the representation was received. SONI have indicated that as Elgin Energy are willing to work with and accommodate SONI Ltd in relation to any future proposed electrical infrastructure into the NIE sub station they are now content. They have agreed to collectively

agree a strategy in relation to the proposed construction of the site boundary and future lines over the PV farm development.

9 CONCLUSION

9.1 The proposed solar farm development is considered acceptable in this location having regard to the North East Area Plan, the draft Northern Area Plan and other material considerations. The development is an appropriate use of the land and is acceptable in terms of its layout and appearance. In accordance with para 52 of PPS 1, no significant harm would be caused to neighbouring amenity. Approval is recommended.

10 CONDITIONS/ INFORMATIVES

10.1 Regulatory Conditions:

As required by Section 61 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 Within 12 months of the cessation of electricity generation from the approved photovoltaic panels, all structures shall be removed and the land restored in accordance with a scheme to be submitted to and agreed in writing with the Council.

Reason: To restore and maintain the landscape quality of the area.

3 The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 07B bearing the date stamp 26 February 2015, prior to the commencement of any other development hereby permitted. 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.

- 4 The access gradient to the dwelling hereby permitted shall not exceed 4% (1 in 25) over the first 10 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.

- 5 The development hereby permitted shall not be commenced until hard surfaced areas have been constructed in accordance with approved Drawing No. 07B bearing date stamp 26 February 2015 to provide adequate facilities for parking and servicing 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.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

- 6 Any access to this site shall be via the access hereby approved onto Bann Road and no access either vehicular or pedestrian shall be permitted onto Ballymaconnelly Road to the North Western side of the site.

Reason: To prevent the use of a sub-standard access in the interests of road safety.

- 7 The applicant / site occupier shall enter into a Grant of Easement with Northern Ireland Electricity (NIE) on NIE's standard terms permitting NIE to retain those overhead lines traversing the site for 999 years and defining a 3.0m wide access corridor from the nearest public roadway to each structure which supports the lines with the width of the access corridor increased as appropriate / agreed for vehicle turning. An area, no less than 4.0m radius around every structure supporting the lines for maintenance/repair purposes shall be provided. The route of the access corridor and the Grant of Easement document shall be agreed / signed prior to commencement of development.

Reason: To safeguard the NIE network in the locality.

- 8 Following commencement of development on site the occupier and/or owner of the development site shall grant an easement on similar terms set out in condition 8 for any new overhead electricity lines which NIE require to route across the development.

Reason: to safeguard the NIE network in the locality.

- 9 No development shall take place until a suitable earthing arrangement affected by the proposal has been submitted to and agreed in writing with the Local Planning Authority in consultation with NI Electricity. The agreed mitigation works shall be carried out and operational at the cost of the developer prior to the commencement of any development on site.

Reason: To ensure safety is maintained for all NIE personnel and members of the public.

- 10 No development shall take place until the harmonic data has been reviewed and a suitable arrangement affected by the proposal has been submitted to and agreed in writing with the Planning Authority in consultation with NIE. The agreed mitigation works shall be carried out and operational at the cost of the developer prior to the commencement of any development on site.

Reason: To safeguard the NIE electricity network in the locality of the PV site

- 11 25m protection zones shall be temporarily marked out around all badger sett entrances as shown on drawing number WSP-0832-GA-600-ST-224. There shall be no construction works including storage or dumping of machinery or materials within these protection zones.

Reason: To protect badgers which are a protected species

- 12 The combined noise level from construction activities within the permitted site shall not exceed the noise limits as stipulated within 'Table 1: Construction noise limits' at any residential property. Measurements between 07.00 and 23.00 hours shall be undertaken at the boundary of any residential property's curtilage nearest to the construction activity. Measurements between 23.00 and 07.00 hours shall be undertaken 1 metre from the façade of any residential dwelling. If access to any residential property is not forthcoming or measurement is not feasible, a measurement location and concomitant noise level shall be agreed with the Department in consultation with Ballymoney Borough Council's Environmental Health Section.

Table 1: Construction noise limits

Day of week	Time	LAeq,1hour	LAmix
Monday to Friday	07.00 – 18.00	65 dB Curtilage	-
	18.00 – 23.00	55 dB Curtilage	-

	23.00 – 07.00	45 dB Façade	60 dB	
Saturday	07.00 – 13.00	65 dB Curtilage	-	
	13.00 – 23.00	55 dB Curtilage	-	
	23.00 – 07.00	45 dB Façade	60 dB	
Sunday	07.00 – 23.00	45 dB Curtilage	-	
	23.00 – 07.00	45 dB Façade	60 dB	

- 13 No PV Panels shall be erected within the Gas Pipeline Wayleave as indicated on drawing 02B which was received by the Planning Authority on 16-MAR-2015. Prior to the commencement of development the applicant / contractor shall, in consultation with the gas pipeline operator, demarcate the wayleave on site and notify the operator of any access or service required to cross the pipeline or any works in proximity to the pipeline.

Reason: To ensure access to strategic infrastructure.

- 14 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.

- 15 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.

- 17 No existing tree to be retained (i.e. Category A-C with a root protection zone) as identified on drawing Nos 18A, 19A, 201A, 21A and 22 which were received on 12-MAY-2015 shall be cut down, uprooted or destroyed or have its roots damaged within the crown spread, nor shall arboricultural work or tree surgery take place on any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Department. Any approved arboricultural work or tree surgery shall be carried out in accordance with British Standard 3998, 1989. Recommendations for Tree Work.

Reason: To ensure the continuity of amenity afforded by existing trees.

- 18 All planting as indicated in Fig 1.10 of the submitted Landscape and Visual Assessment received on 28-OCT-2014 shall comprise native species hedgerow/trees of mixed woodland species and any shrubs / trees which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

INFORMATIVES

- 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 permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
- 3 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 Department or other statutory authority.
- 4 The applicant is informed that it is an offence under Article 7 of the Water (Northern Ireland) Order 1999 (as amended) to knowingly or otherwise discharge or deposit any poisonous, noxious or polluting

matter so that it enters a waterway or water contained in any underground strata. The penalty if found guilty of an offence under this Article can be imprisonment for a term not exceeding 2 years or a fine or both.

- 5 For further information on pollution prevention please contact Northern Ireland Environment Agency, Water Management Unit (Telephone: 028 9262 3100).
- 6 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.
- 7 Notwithstanding the terms and conditions of the Department of Environment'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 Regional Development'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 TransportNI Section Engineer whose address is Trillick House, 49 Queen Street, Ballymoney. A monetary deposit will be required to cover works on the public road.
- 8 All construction plant and materials shall be stored within the curtilage of the site.
- 9 It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
- 10 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 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects

any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

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.

- 11 If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

The applicant's attention is drawn to 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 II of these Regulations, which includes the otter (*Lutra lutra*). It is also an offence;

- (a) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) 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;
- (c) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- (d) 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 BT72JA. Tel. 028 905 69605

- 12 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. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or

destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence.

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.

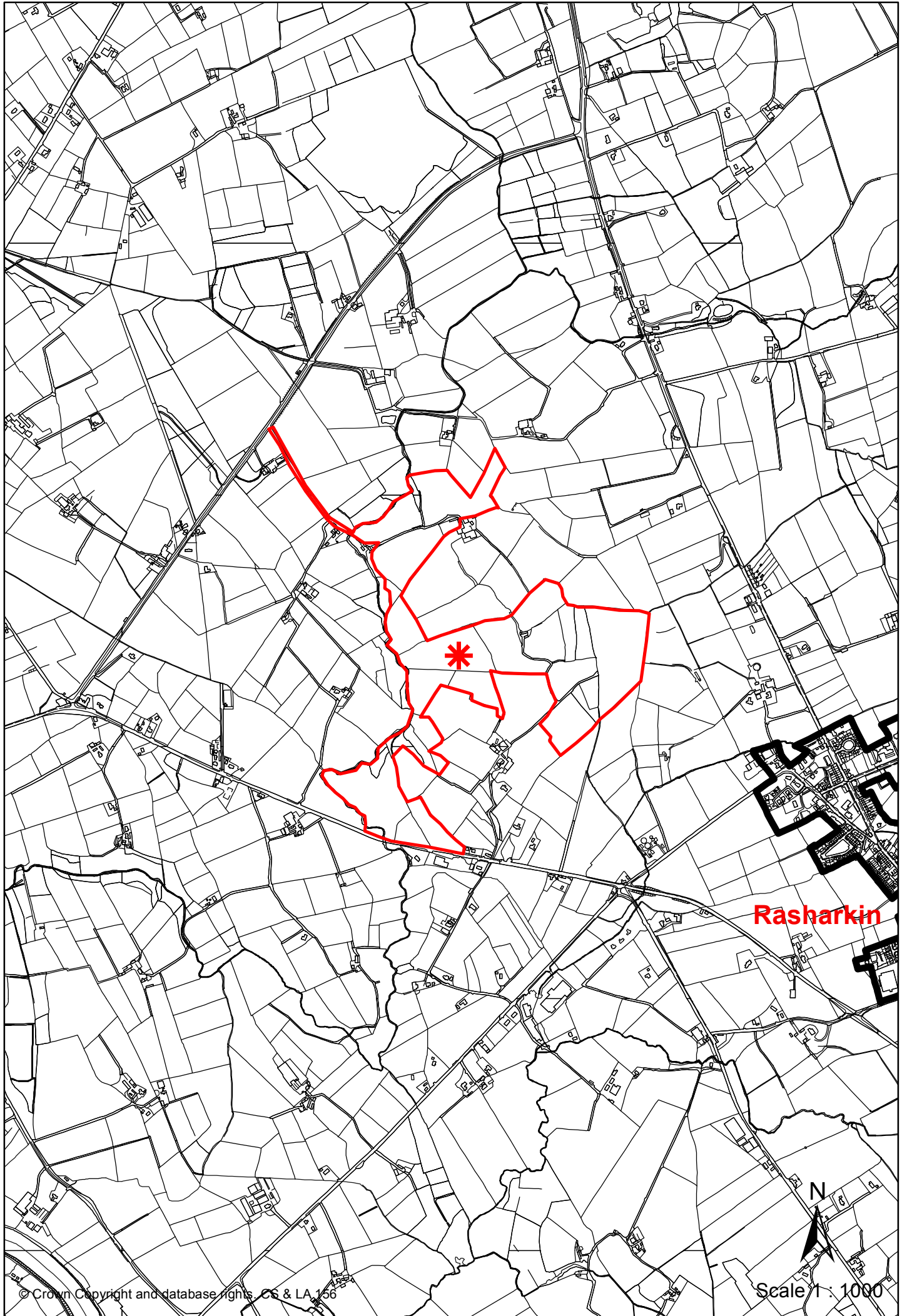
It is therefore advised that tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

- 13 Rivers Agency would advise that all finished levels (including paths) should be placed at a minimum of 600mm above the 1 in 100 rear fluvial floodplain.
- 14 Under the terms of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of Rivers Agency.
- 15 Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
- 16 Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
- 17 If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
- 18 Visual inspection of the site indicated areas which appear liable to waterlogging. The developer is advised to obtain advice from suitably

qualified, competent persons in respect of internal drainage requirements, site levels, finished levels etc.

- 19 Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.
- 20 Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
- 21 The undesignated watercourse which lies (within / bounds) the development site, requires improvement works to (facilitate increased storm runoff / to enhance protection against flooding) and such works will be undertaken at the developer's expense.
- 22 The applicant is advised that it is an offence under section 47 of the Fisheries Act (Northern Ireland) 1966 to cause pollution which is subsequently shown to have a deleterious effect on fish stocks.
- 23 The applicant is advised that no construction should be made, trees planted or other obstruction made within 3m (or 1.5 times the depth whichever is greater) of sewers, or 4m (or 1.5 times the depth whichever is greater) of watermains. A diversion may be necessary. Consultation with NIW is required at an early design stage.
- 24 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.

The applicant is advised to contact NIW through its Customer Relations Centre on 08457 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. Water Supply Requirements



Rasharkin



Scale 1 : 1000

