



**Causeway
Coast & Glens
Borough Council**

Planning Committee Report LA01/2016/1328/F	28th June 2017
PLANNING COMMITTEE	

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

EXECUTIVE SUMMARY

LA01/2016/1328/F

Full Planning

This Executive Summary is prepared for planning application LA01/2016/1328/F which is for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction including exhibition space, tourist retail unit (c.150sqm) and office space, demonstration restaurant, car/coach parking, access/junction alterations, landscaping and associated infrastructure works) on land south of 120 Ballyreagh Road, Portstewart.

Full consideration of this proposal is set out in the Planning Committee Report.

This application is Major Application and was subject to a Pre-Application Community Consultation which took place on 18th June 2016 with 43 questionnaires completed. The application was submitted with various documents, including a pre-application community consultation report and was made valid on 1st November 2016. All relevant consultees and neighbours were notified and the application was advertised in the local press. As a result of the consultation process there were a total of 48 letters of objection and 54 letters of support. All consultees had no objection subject to conditions where necessary.

There are a number of policy documents and guidance that apply to this application. The main policy consideration is Planning Policy Statement 16: Tourism which considers the principle of a hotel.

In assessing the application there are several matters that have been considered, including those raised within the letters of objection. Other matters of consideration include:

- The principle of development

It is considered that the principle of the development at this edge of settlement location is acceptable having regard to policies TSM 3, TSM 5 and TSM 7 of Planning Policy Statement 16.

- Portrush hotel study

Although this study may be informative, and is a consideration in processing this application, it is not a planning document and has not been through any formal inquiry or examination, so should therefore be afforded limited weight

- Economic considerations

This proposal is a large scale investment which will cost around £15million to deliver and would create significant construction jobs and, when operating close to 100 full time jobs. This proposal, both locally and regionally, would go some way in meeting an objective of the Executive creating jobs and investment to stimulate the local and regional economy and promote long term growth.

- Impact on residential amenity

There will be a change on the existing properties around the site, including an impact on views, and changes to the level of noise, odour and light. Having consulted with Environmental Health in this regard, the proposal is not considered to have an unacceptable adverse impact on residential amenity.

- Design of the proposal

The design is modern with architectural consistency between the buildings which results in a level of integrity to the scheme. The hotel building is large, consisting of up to 3 floors and an overall height of 11.5 metres rising to a highest point of 13.5 metres. There are significant amounts of glass within the buildings, particularly to the northern and western elevations, which maximise the views. The car parking has been broken up by the buildings and landscaping to avoid a 'sea' of hardstanding and the other buildings have been integrated within the existing landscape. It is considered that the design is acceptable.

- Visual impact on the landscape

A landscape and visual assessment has been carried out which identifies a total of 11 viewpoints. The proposal has been assessed both before and if construction took place. The proposal will have a

visual impact on the landscape. However, the built form is considered acceptable and compatible with the surrounding area which will not detract from the landscape quality or character of the area.

- Impact on the adjoining Site of Local Nature Conservation Interest (SLNCI) and two adjoining Local Landscape Policy Area's (LLPA)

The site is not located within any SLNCI or LLPA. Therefore the relevant plan policies do not apply. Having regard to the designations, it is considered that the proposal will not have any adverse impact on these.

- Northern Area Plan Examination in Public

An objector has raised a representation to the Northern Area Plan and the commentary of the findings from the Planning Appeals Commission to this. However, this representation and commentary relate to an adjacent parcel of land and not the application site. This is therefore given little weight.

- Impact on Archaeological potential of the site and historic assets.

Historic Environment Division was consulted in this regard. It concluded that the proposal would have an overall low potential direct or indirect impact upon designated and non-designated assets within the surrounding area and therefore the proposal is considered acceptable in this regard.

- Impact on the Coast

The coastline along the Causeway Coast is extremely sensitive subject to a number of zonings and designation. This area lies within part of the developed coast outside any of the areas designated, zoned or identified as an area of amenity value. Therefore the proposal will not have an unacceptable impact on the coast.

- Traffic and parking

The application proposes to access onto a protected route and requires 318 car parking spaces. DfI Roads has been consulted as the competent authority in this regard and raise no objections. The proposal complies with policy requirements and is acceptable in this

regard.

- Drainage

A drainage assessment has been submitted and Rivers Agency consulted as the competent authority in this regard. Rivers Agency has considered this assessment and, subject to approving the final design details, raises no objection.

- NW200 Proposal

The application proposes to utilise a small area of floorspace for the use of the NW200 event. This includes an exhibition/retail space and some office accommodation. Having regard to the ancillary nature of this in relation to the overall scheme, it is considered that this element is acceptable.

This is a significant proposal on the edge of Portstewart, located just outside the existing settlement limit. There is a significant economic consideration and there is significant support for the proposal. There is also significant objection to the proposal. Having regard to the planning policies and all matters considered, approval is recommended.

LA01/2016/1328/F
Full Application

**Land south of 120 Ballyreagh
Road, Portstewart.**

28th June 2017

<u>No:</u>	LA01/2016/1328/F	<u>Ward:</u>	Atlantic
<u>App Type:</u>	Full Application		
<u>Address:</u>	Land south of 120 Ballyreagh Road, Portstewart.		
<u>Proposal:</u>	Full application for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction including exhibition space, tourist retail unit (c.150 sq m) and office space, demonstration restaurant, car/coach parking, access/junction alterations, landscaping and associated infrastructure works) on land south of 120 Ballyreagh Road, Portstewart.		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	01.11.2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Ferguson Planning, 61 Moyle Road, Ballycastle, BT54 6LG		
<u>Applicant:</u>	C & V Developments Ltd, Falloden House, Upper Lewinshope Farm, Yarrowford, Selkirk TD7 5JY.		
<u>Objections:</u>	48	<u>Petitions of Objection:</u>	0
<u>Support:</u>	54	<u>Petitions of Support:</u>	0

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

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located east of Portstewart settlement. The land is bound by Portstewart golf course on the west which is on a slightly higher level, an agricultural field on the southern boundary and cluster of holiday homes and two dwellings to the south east (known as Ballygelagh Village). The western boundary is defined by a low level stone wall with some sporadic vegetation. The site is bound on the east by another

agricultural field and the lane accessing Ballygelagh Village. There is a small derelict bungalow enclosed by mature vegetation on the access lane (no. 100 Ballyreagh Road) to Ballygelagh Village. The land to the north of the site comprises a hardstanding area which is used at various times throughout the year, including being used as the pits for the North West 200 motorcycle event. The northern point of the site is bound by the A2 Ballyreagh Road which travels along the coast between Portstewart and Portrush. This part of the road is the start and finish lines for the NW200. The application site wraps around a single dwelling fronting the road known as 120 Ballyreagh Road.

Description

- 2.2 The land level slopes down from the south east towards the coast to the north. It is currently an exposed site with wide stretching coastal views to the north. The northern section of site is permanently laid out to be utilised by any events as the majority of it has been hard surfaced and is served by floodlights, telegraph poles and enclosed and dissected with various metal fences. The southern section comprises a field which is notably higher in the south east corner as there is a rocky mound and further south east is Ballygelagh Village. The site hosts two overhead power lines, one which runs from north to south and another from east to west.

Character of the Area

- 2.3 The land to the north of Ballyreagh Road is very open and hosts a popular section of the coastal walk from Portstewart to Portrush. The coastal path follows the undulating cliffs providing views across towards Castlerock and Donegal. The coastal path is served by a number of car parks and viewing points close to the site including Rinagree Coastal Park car park and Rinagree Point car park. There is a golf course to the west/north west of the site.
- 2.4 Ballyreagh Road rises to the east of the site before travelling slightly inland. On this corner there are two pairs of semi-detached single storey dwellings and with a two storey detached dwelling currently under construction. There is also a linear development of six holiday cottages known as Quarry Hill

further off the roadside. Quarry Hill holiday cottages have a white render finish and white upvc sun room style roofs.

- 2.5 The cluster of dwellings to the south east is known as Ballygelagh Village, and is characterised by two storey white rendered dwellings and the presence of dormers and white upvc sunrooms. The two detached dwellings closest to the application site within Ballygelagh Village (nos. 22 and 108) are quite different to the x24 modern holiday cottages. No. 108 is a traditional two storey dash finish farmhouse and no. 22 is a single storey stone built bungalow with detached garage.
- 2.6 There are two large caravan parks to the east towards Portrush; Juniper Hill and Carrick Dhu located on the Ballyreagh Road. There are also dwellings, apartments, commercial buildings and tourist accommodation between the two settlements.
- 2.7 The site is located outside Portstewart Settlement Development Limit as defined by the Northern Area Plan 2016. The settlement limit follows the western boundary of the golf course.

3 RELEVANT HISTORY

- 3.1 No relevant planning history.

4 THE APPLICATION

- 4.1 This is a full application for the development of a three storey hotel with spa complex including conference and banqueting facility, 9 holiday cottages (of two designs), NW200 visitor attraction and a demonstration restaurant.
- 4.2 The development would be accessed off the Ballyreagh Road by making improvements and relocating an existing access which serves No. 120 Ballyreagh Road. The proposal would create a new driveway for the property via the proposed access road.
- 4.3 During the processing of the application, revisions were sought to various reports. There was also a revision to the overall layout to include an area identified as overspill car parking and service road as this is integral to the overall scheme and operation of the hotel. A hedge is proposed to enclose this.

4.4 The proposal falls within the Major category of development and as such the applicant entered into pre application community consultation including the submission of a Proposal of Application Notice (PAN). The applicant organised and facilitated a public event, with appropriate community notification and advertisement. The applicant submitted a pre-application community consultation report with the application which documents the comments raised at the public meeting.

4.5 The consultation event took place 18th June 2016 at the application site within a marquee. In addition to the event the applicant set up a Facebook page and website which enables member of the public to comment on the scheme. Feedback forms with nine questions each were provided at the event. In total 43 questionnaires were completed. In terms of positive feedback, the following statistics were gathered from the completed questionnaires:

- 81% of respondents agreed there was a need for a 4* hotel and space, holiday cottages and conference facilities in the area.
- 74% supported the provision of leisure facilities for use by local residents as well as visitors to the hotel.
- 74% supported the provision of office and exhibition space for the NW 200.
- 74% supported the enhancement of the public realm.
- 77% considered the proposal to be provide a significant economic investment for the north coast

4.6 In terms of negative feedback, the agent summarised the more critical comments made during the consultation process as follows:

- *Views will be destroyed. No details on height has been provided.*
- *The site is within the green belt.*
- *There is no site specific need. This should be located in the towns where hotels have closed.*
- *It will set a precedent for development of adjoining fields for holiday homes.*
- *It will not be viable and when it closes would be converted into flats.*
- *It will be too prominent for the countryside.*
- *The restaurant on a hill is too close to Ballygelagh Village*

due to the noise, headlights, smells, cooking, and people smoking outside.

- *There should be no more second homes.*

4.7 As a result of the public consultation exercise, the restaurant was changed into a demonstration restaurant to be operated by the hotel, so as to limit and restrict usage to help reduce impact on the nearest sensitive receptors. The demonstration restaurant is a building that contains 17 workstations each with its own kitchen facilities. This is an area where individuals can attend cookery classes or cookery demonstrations and partake in the experience.

ENVIRONMENTAL IMPACT ASSESSMENT

- 4.8 This proposal was subject to a Regulation 7 Pre-application determination as to need for environmental impact assessment and opinion as to content of environmental statement, under The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. This was considered under reference number LA01/2016/0893/DETEIA. On receipt of the application and, under the regulations prevailing at that time, it was considered that the development in question has been the subject of a determination as to whether the application is or is not an EIA application.
- 4.9 The application was considered to fall within Schedule 2, Section 12(c) of the Regulations – *The carrying out of development to provide holiday villages and hotel complexes outside urban areas and associated development.* In accordance with Schedule 3 of the Regulations, the development was considered, having regard to the characteristics of the development, the location of the development and the characteristics of the potential impact. It was concluded that the environmental effects from the development would be limited to the site and immediate surrounding area. The proposal was not considered to be unusually complex or have any potentially significant environmental effects. The consultation did not identify any significant environmental effects from the proposal and the determination was set out in a letter dated 13.09.2016 that the proposal was not an EIA development and as such did not need to be accompanied by an Environmental Statement.

- 4.10 Having considered the Regulations and the guidance set out in DCAN 10, officials do not consider the development proposal to have any likely impacts of such a significance to warrant an environmental statement.

HABITAT REGULATIONS ASSESSMENT

- 4.11 The application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Causeway Coast and Glens Borough Planning Authority.
- 4.12 Having considered the nature, scale, timing, duration and location of the project Shared Environmental Services concluded that subject to the imposition of a condition requiring details of suitable mitigation, the proposal would not have an adverse effect on the site integrity of any European site. The selection features of the Special Area of Conservation (SAC) which have been identified include sandbanks, reefs, sea caves, and harbour porpoise. There is no potential impact on the sandbanks, reefs, sea caves due to the distance from the site and the mitigation details submitted to date in the construction management plan (Document 13A). However the potential impact on the harbour porpoise may be significant due to the type of construction work. However, due to the separation distance from the site and the coast, the impact is unlikely and this would be secured by way of a condition regarding the methods of work and mitigation is put in place to minimise disturbance to the selection feature (harbour porpoise). The condition would require the submission of a final construction environmental management plan.

5 PUBLICITY & CONSULTATIONS

Preliminary Matter

- 5.1 There was reference within an email submitted by the planning agent acting on behalf of the Ballygelagh Village Owners Association that they wished to seek a meeting. Officials then offered 2 meeting dates in an email 18th May 2017 at a mutually

convenient day and time. The Agent declined this meeting stating that neither they, nor any of the residents could meet on either of these dates. Out of courtesy a further meeting date was then offered on email 26th May 2017. However, there was no response to this email until 12th June 2017, when the planning agent requested a meeting. If there is a meeting with the objectors, an addendum to this report will be provided prior to the meeting of the Planning Committee.

External

5.2 There have been 47 (forty-seven) letters of objection and 53 (fifty-three) letters of support.

5.3 The objectors raised matters of concern in relation to the following:

Principle/ Economic / Need

- Any new hotel should be on pre-existing building site or within Portstewart. Other hotels have failed because of a lack of demand. There is concern about the long term viability of the hotel. A hotel beside Inn on the Coast was not delivered.
- The proposal is not only a hotel but would create conference centre, banqueting facility, office space, retail unit, exhibition space and a restaurant which all have different policy considerations. This cannot all be justified and assessed as tourism.
- Demonstration restaurant is unnecessary. Staff training and cookery classes could take place in the main hotel building and does not need a separate building.
- At the Northern Area Plan examination, the PAC considered it important to have a physical and visual break between Portrush and Portstewart. PAC rejected a proposal for tourist development on this land.
- The NW200 element and Golf Open 2019 has been exaggerated to circumvent regular planning restraints.
- There is no guarantee that the NW200 will continue to operate with rising insurance costs.
- No consideration is given to the impact on existing businesses/ accommodation providers.
- Policy TSM3 and TSM4 of PPS16 are relevant and the

applicant must demonstrate exceptional circumstances. It is unjustified major development and as such should be advertised as a departure from the local plan and may trigger a call-in.

- The holiday cottages are contrary to policy and are more akin to permanent dwellings.
- The Portrush hotel study was not site specific but inferred Portrush and recommended a low rise hotel. This site is not in Portrush and is not low rise.
- The Portrush hotel study identified a site of 4 to 5 acres of land. This proposal is in excess of this recommendation (13.3 acres). There should be more suitable sites in terms of both size and location to provide appropriate hotel stock.
- The site selection was limited due to the over ambitious scale of development. A search of sites further afield should have taken place.

Residential amenity

- Detract from amenities of Ballygelagh Village in terms of views, noise nuisance, odour, light pollution.
- The road to Ballygelagh Village must be considered in terms of critical views along with the pedestrian access through to Station Road.
- This is a public right of way by reason of its use particularly during the NW200.
- The proposal would be over dominant from such vantage points and critical views would be diminished.
- The superimposed photographs removed the headland. Notwithstanding this the scale of the development is overwhelming, overpowering and alien in the countryside.
- Noise from taxis, private cars, buses and delivery vehicles will impact amenity of occupants in Ballygelagh Village during the day and night hours. In particular during large events and parties from the licensed premises and holiday homes.
- Detracts from amenities of Quarry Hill development in terms of views, odour and noise along with light pollution.
- Residents on the roadside (120) are concerned re. Noise nuisance and congestions of traffic, loss of privacy, do not want a shared access. The 1m acoustic bund to the west of the bungalow and east of the upgraded access would appear alien

and fail to integrate with the natural topography. It's unclear as to how the bund would provide sufficient acoustic protection.

- It would greatly devalue the properties in Ballygelagh Village partly due to the loss of sea views.
- 22 Ballygelagh Village will be 20m from the demonstration restaurant and due to the prevailing winds would be subject to smells from the demonstration restaurant especially when sitting outside. Also concerned that this would become a full functioning restaurant in time generating much more traffic.

Natural environment

- Negative impact on natural environment – livestock and wildlife. The ecology report was done in summer not winter when there is feeding by endangered species of curlew, lapwings and buzzards.
- Detracts from setting of Skerries and Causeway SNI, LLPA and SLNCI.
- The land is within Rockview LLPA which only permits development related to the necessary maintenance of the golf course and the operations of Rockview farm.
- The submission does not provide a visual assessment of what the development would look like in 5, 10, 15 years.
- The majority of the land is agricultural and within the countryside. It has a role of preventing coalescence of the settlement of Portrush and Portstewart.
- The presence of tarmac, power lines and fencing does not justify this scale of development in the countryside.
- There should be an Environmental Statement and LPA should have issued an EIA.determination within 4 weeks.

Design

- The design and scale is not in keeping with the site or rural location in particular the AONB characteristics. It would mar the distinction of settlements and would be visually prominent that the existing landscape where there is limited vegetation and no opportunity to integrate.
- The height of the building will obscure the land behind it. The car park will add greyness.
- The proposed sedum roof fails to offer sufficient mitigation to make the scheme any more palatable.

- The extent of car parking will be alien in this exposed rural location.
- It would set a precedent and is not in keeping with recent decisions. A proposed balcony was refused in Ballygelagh village.
- The fact extensive excavation is necessary is an admission that the development fails to respect the characteristics of the site.

Access/ Traffic

- The A2 is a protected route and a new access onto a protected route outside settlements should not be supported. The new access would affect the efficiency and safety of the protected route.
- The area of parking which was previously annotated as overspill car park still reads as being separate to the main car park 1. There is not sufficient robust connection between the two areas given the presence of planting/screening.

Other

- There are heritage assets to the north east which have not been properly assessed in respect of the impact of the development on their setting.
- If this hotel fails there is a concern that it will be a blight in the landscape.
- The examples given of other hotels are on large countryside estate with associated golf courses. This hotel would be in a highly visible location on a busy thoroughfare.
- The use of a section 76 planning agreement to prevent separation of the components provides no comfort as the legislation allows for applications to modify or remove such agreements.
- The Belfast Telegraph published an article (June 17) announcing the construction of a new hotel in Portrush on the site which is currently occupied by the Londonderry Hotel. This new hotel would mitigate the need for this proposal.
- There is objection to the proposed construction management plan and concerns regarding impact on the surrounding residents.

5.4 The representation made in support of the applications have raised the following matters:

Need

- There is need for additional accommodation with a multipurpose space to host large scale events. A conference centre is needed to facilitate business meetings and conferences. It could also host receptions and launch events rather which currently takes place in Belfast.
- The NW200 runs large scale conferences and hospitality events throughout the year. Due to the lack of suitable accommodation, those events are currently taking place in Belfast undermining the event's local connection
- Need for the new leisure facilities for both the tourism industry and local population. Coleraine is the only swimming pool in the locality but it has limited availability in summer/at weekends.
- There is a lack of high end quality accommodation (four and five star hotels). The area needs a variety of accommodation in addition to bed & breakfast facilities. Due to the closure of other hotels, this exacerbated the need.
- At present many international visitors stay in either Belfast or Dublin.
- The current lack of high quality accommodation would adversely affect the legacy of the Open golf.
- A development of this scale and mix will ensure the area can accommodate larger groups and with facilities such as the spa/leisure complex and demonstration restaurant which would significantly increase visitor numbers in winter and summer.
- The vision to include a demonstration restaurant/cookery facility will tap into the interest for food and drink themed holiday experiences and provide a means to showcase the local food and drink produce from the Causeway region.

Economic benefits

- Increase customer spend in the area by supporting the growth of the business and tourism economy
- It will provide employment not only for those working at the hotel but businesses that will supply services. It will also increase trade in restaurants, pubs, shops and other visitor attractions/activities.
- It will increase the tourism offer ie. Providing spa/leisure

facilities to those who are already staying in the area.

- The demonstration restaurant would be great for locals and tourists, similar to Bushmills salmon and whiskey festival and the potato week.

Design

- It is a huge improvement on what is currently on site with green fencing and locked gates.
- The design of the proposal is sympathetic to the site and blends in.
- It does not create an eyesore or encroach on the coastline. Its location is superb and would be an asset to the area.

North West 200 / The Golf Open

- It will help preserve and develop the NW200 event beyond its current popularity. The benefits for the NW200 include permanent office, race control, media centre, VIP/corporate hospitality, motor cycle museum. It would also provide a meeting point for motorcyclist's local and touring accommodation for teams, sponsors and spectators. The event needs its own dedicated visitor centre.
- Riders who stay at the hotel will not have to queue through road closures before going to get a shower after the race
- Organisers of the Golf Open consider the proposal to be of a scale and quality that will service the needs of those working and visiting the Open and will strength the support network of the open in this area providing additional high quality accommodation which will benefit the event and tourism in the local area generally.

Internal:

NIEA– Has no objection subject to condition and informatives.

DFI Roads – Has no objection subject to conditions and informatives.

Environmental Health – Has no objection subject to conditions and informatives.

Historic Environment Division – Has no objection subject to condition.

Rivers Agency – Has no objection subject to condition.

NI Water – Has no objection subject to conditions and informatives.

6 MATERIAL CONSIDERATIONS

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

7 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016 (NAP)

Strategic Planning Policy Statement (SPPS)

Regional Development Strategy (RDS)

Planning Strategy for Rural Northern Ireland (PSRNI)

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 3 (Clarification): AMP 3: Access to Protected Route

PPS 4: Economic Development

PPS 6: Planning Archaeology and the Built Heritage

PPS 16: Tourism

PPS15 (Revised) Planning and Flood Risk

PPS 21: Sustainable Development in the Countryside

Supplementary Planning Guidance

Parking Standards

Northern Ireland Regional Seascape Character Assessment

Northern Ireland Regional Landscape Character Assessment

Northern Ireland Landscape Character Assessment

DCAN 15: Vehicular Access Standards

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application include:

- The principle of development
- Portrush hotel study
- Economic considerations
- Impact on residential amenity including noise, light, odour
- Design of the proposal
- Visual impact on the landscape
- Impact on the adjoining Site of Local Nature Conservation Interest (SLNCI) and two adjoining Local Landscape

Policy Areas (LLPA)

- Northern Area Plan Examination in Public
- Impact on Archaeological potential of the site and historic assets.
- Impact on the Coast
- Traffic and parking
- Drainage
- NW200 Proposal
- Other matters

Planning Policy

- 8.2 The principle of development proposed must be considered having regard to the NAP, the SPPS and relevant Planning Policy Statements specified above.
- 8.3 The site is not within any designations according to the Northern Area Plan 2016 however the land to the south west is designated as a Local Landscape Policy Area (LLPA : PTL05 Rockview). This LLPA incorporates a Site of Local Nature Conservation Importance (SLNCI - CNC04 - Portstewart Old Links). Land to the north is also designated as a Local Landscape Policy Area (PTL04 Golf Links and Eastern Coastal Area). Ballyreagh Road (A2) running to the north of the site is a Protected Route.
- 8.4 NAP does not have any specific policy on Tourism, however, the Strategy Plan Framework (Vol 1) of NAP recognises the decline in serviced accommodation in the post war period and increased use of caravans. It acknowledges recent growth in second homes and how this pressure for second homes is often in the most sensitive locations. NAP advises of the need for quality accommodation and visitor infrastructure in order to realise the tourism potential of the area. NAP promotes tourism development in general but never at the expense of the natural and built environment of which the industry relies and in which local people live.
- 8.5 NAP Proposals (Vol 2) advises that Portstewart along with Portrush and Coleraine function effectively as a single urban area. As such, Portstewart is part of a local cluster of towns, contributing to the synergy of a larger urban complex. Although

it has many of the facilities of a modest size town, it now primarily functions as a suburb of Coleraine. Notwithstanding this, the emphasis of the Plan is to maximise development within the existing urban footprint ie the development limit of Portstewart.

- 8.6 PPS21 is the relevant policy for development in the countryside. This application is considered to be in the countryside by reason of it falling outside Portstewart development limit. In terms of tourism development, Policy CTY1 of PPS21 points to TOU Policies of PSRNI. However the preamble of PPS16 states *'the policies of this statement will supersede Tourism Policies SP10 and TOU1 to TOU4 of the Planning Strategy for Rural Northern Ireland PSRNI) and also Policy CTY1 of PPS21 as it relates to the tourism policies of PSRNI.'* Therefore, Policy CTY1 of PPS21 has been superseded in so far as it relates to tourism development.
- 8.7 PPS21 still contains general policies regarding the setting of settlements, the siting of development, the need to protect rural character and promotes the integration of development which will be considered. Many of these matters are similarly covered under TSM 7 of PPS 16 which covers design and general matters.
- 8.8 Policy RG4 of the RDS promotes sustainable approaches to the provision of tourism infrastructure requiring all new infrastructure to be appropriately located and sited with regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends.
- 8.9 Core planning principles of the SPPS include improving and health and well-being, creating and enhancing shared space, supporting sustainable economic growth, supporting good design and positive place-making as well and preserving and improving the built and natural environment.
- 8.10 The main aim of the SPPS (Para 6.255) in relation to tourism development is to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment.
- 8.11 Where there is no suitable site within a settlement a new build

hotel, guest house, or tourist hostel the SPPS (Para 6.260) advises it may be appropriate on the periphery of a settlement subject to meeting normal planning requirements.

- 8.12 Policies TSM3, TSM 5 and TSM 7 of PPS 16 also apply to this proposal.

Principle of development

- 8.13 NAP refers to PPS16 as the relevant policy for tourism development. The main policy consideration to assess the principle of the development is assess tourism development is Policy TSM3 - Hotels in the countryside of PPS16.
- 8.14 It is recognised that Policy TSM4- Major Tourism Development in the Countryside also relates to the principle of certain forms of tourism development in the countryside. However, given that TSM 3 relates specifically to a typology which includes hotel developments, and considering that the level of other amenities are commensurate to a large scale hotel, it is felt that TSM 3 is best placed to consider such a proposal. This is supported by the supporting text of TSM 4 which identifies major tourist development as tourism amenities likely to attract significant numbers of visitors of along with a commensurate level and quality of visitor accommodation. The proposal is a hotel with ancillary related use that would not attract significant numbers in its own right. There are uses that need to be considered against the relevant policies that apply, such as the retail and office elements.
- 8.15 The justification for locating new hotels within existing settlements is to take advantage of existing services and facilities, providing ready access for visitor and employees and to minimise the impact on rural amenity and character. However it is accepted in policy that it is important that firm proposals for such projects are not impeded due to a lack of suitable land within settlements. Given the scale and nature of this hotel proposal, this is considered to be land intensive and further consideration of alternative sites is set out in Paragraphs 8.16-8.23.
- 8.16 Policy TSM3 sets out the criteria for proposals to develop a

hotel on land at the edge of a settlement. This proposal would be on the edge of Portstewart and as such this policy is most relevant.

1. there is no suitable site within the settlement or other nearby settlement;

- 8.17 The applicant has undertaken a sequential site assessment for this proposal and assessed 16 sites within Portstewart and Portrush against a number of criteria including location, area, ownership, physical constraints and planning restrictions. The sequential site assessment is set out in Appendix 2 of the applicant's Planning Statement.
- 8.18 Prior to undertaking the sequential site assessment the applicant calculated that the development would require land to accommodate a 4* hotel complex (5,500sq m) together with access, parking and servicing. In their market research the applicant considered a sea view to be of critical importance to the viability of the scheme in meeting visitor expectation.
- 8.19 In assessing the sequential site assessment, case law (in relation to sequential sites for retail development) that provided an applicant has done so, the question is whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site. Case law requires a need for applicants to be flexible and realistic in the assessment and suitability of alternatives and also flexibility from the Planning Authority's assessment of the site selection. Therefore only realistic alternative sites which would be capable of accommodating the proposed development can be considered.
- 8.20 Appendix 2 of the applicants Planning Statement details each of the 16 sites as listed below:

1. Dunluce Centre (Portrush)	2. West Strand (Portrush)	3. Castle Erin (Portrush)	4. Waterworld (Portrush)
5. Salmon Fisheries (Portrush)	6. Causeway Street (Portrush)	7. Former Catering College (A), Skerries Holiday Park (B) & Kelly's Complex (C)	8. Glenmanus Road
9. Ballyreagh Road (Inn on the Coast) (Between Portrush & Portstewart)	10. Portstewart Promenade (Portstewart)	11. The Diamond (Me and Mrs Jones boutique hotel) (Portstewart)	12. Prospect Road (Portstewart)
13. Strand Road (Portstewart)	14. Coleraine Road (Site A & B) (Portstewart)	15. Lissadell Avenue (Portstewart)	16. Station Road (Portstewart)

8.21 While there are 16 areas identified Site 7 assesses 3 separate parcels of land and site 14 assess 2 parcels of land, so there have been 19 sites in total assessed. Of the sites above, only the following 8 sites provide land over 2ha which is considered reasonable to deliver a hotel of circa 100 bedrooms with conference facilities: Dunluce Centre, West Strand, Former Catering College (A), Skerries Holiday Park (B) and Kelly's Complex (C), Glenmanus Road, Prospect Road, Lissadell Avenue and Station Road. None of these sites, are readily available, although the Dunluce Centre was recently available to lease. However, a Pre-Application Notification has been submitted to the Council from a third party and it appears this is no longer available.

8.22 Having regard to the applicant's assessment and considering other larger areas of land available within the settlement limits, there does not appear to be a suitable, ready and available site. Much of the larger areas of open land, such as Parker Avenue in Portrush or The Warren in Portstewart are protected under planning policy as areas of open space.

8.23 From the sequential site assessment and considering other larger potential areas of land, no alternative sites to accommodate the scale and nature of the proposal have been identified within the settlement or nearby settlement (Portrush or Portstewart). It is considered that the proposal meets this part of the policy.

2. *there are no suitable opportunities in the locality to provide a hotel, guest house or tourist hostel either through*
 - a. *the conversion and re-use of a suitable building(s) or*
 - b. *the replacement of a suitable building(s);*

8.24 The sequential site assessment considered sites which would involve conversion, re-use and replacement. From the assessment and local knowledge it is considered that there are no suitable opportunity sites in the locality.

8.25 An objector has submitted a recent newspaper article which announced the submission for a new hotel on Main Street/Atlantic Avenue, Portrush on the site of the former Londonderry Hotel. This building is currently occupied and operating as a bar/night club and it would be unreasonable for any individual to be required to assess buildings that are occupied and open for business. Furthermore, the proposal is for a different type of hotel providing bedrooms only, with no ancillary facilities such as spa and pool. The planning application has only been submitted and therefore remains under consideration and must go through due process. It should also be noted that The Londonderry Hotel was served with a Building Preservation Notice 1 June 2017 with the potential of possibly being listed by the Department for Communities.

3. *the development is close to the settlement, but will not dominate it, adversely affect landscape setting, or otherwise contribute to urban sprawl.*

8.26 This criterion is fully considered under Paragraphs 8.75 to 8.96.

8.27 The supporting text of Policy TSM 3 is clear that plans for new hotels should not be impeded due to a lack of suitable land within settlements. Sites which are considered acceptable in principle need sufficient mitigation measures including landscaping and design to ameliorate any negative impacts and secure higher quality development.

8.28 To allow an informed consideration the supporting text of Policy TSM3 advises that any proposal should be accompanied with sufficient evidence to indicate how firm or realistic the particular proposal is and what sources of finance are available to sustain

the project. This proposal is a full planning application which has necessitated a significant financial investment to date including costs to date. The applicant has submitted information providing a commitment to the project, and evidence relating to how the project is to be funded. That said, given the commercial sensitivities regarding this information, it is not publically available, but can be made available to any member of the Planning Committee on request. There is a Hotel Demand and Need Assessment which sets out much of the facts and figures regarding the hotel. A business plan has been undertaken and fully costed, and there are advanced discussions with hotel operators who will manage it.

- 8.29 Policy TSM5 states that planning approval will be granted for self-catering units of tourist accommodation in circumstances including when one or more new units all located within the grounds of an existing or approved hotel. Although the hotel is not approved, this element forms part of the overall proposal. It is clear when you read TSM 5 in its entirety that this policy also applies to *proposed hotels* as it reads *“Where a cluster of self-catering units is proposed in conjunction with a proposed or approved hotel, a condition will be attached to any planning permission granted....”*
- 8.30 Policy requires that the self-catering development is subsidiary in scale and ancillary to the primary tourism use of the site. This is the case in this proposal with 9 self-catering units proposed. The units have been designed in such a way to deter permanent residential use due to their orientation with each other (front looking onto backs) and that they are located in a central location within the overall hotel complex and cannot be discretely dissected from the rest of the scheme. They are also served by the only hotel access.
- 8.31 TSM5 provides for sustainable economic benefits because new self-catering accommodation linked with an existing tourism enterprise can create synergy by enhancing its usage, economic viability and attractiveness to tourists. In turn this will support wider tourism initiatives. Therefore, in principle, it is considered that this proposal satisfies the policy requirements. That said, policy is clear that there is a need to discourage any form of permanent residential accommodation to ensure that

the accommodation benefits local communities and use of these as private dwellings does not occur. Conditions requiring the units to be used for holiday letting accommodation only and not for permanent residential accommodation and removal of permitted development rights are necessary.

Portrush Hotel Scoping Study

- 8.32 As part of wider regeneration plans for Portrush and to help the Department for Communities establish the need for a hotel in Portrush, the Department for Communities commissioned a hotel scoping study in 2015. Although this study may be informative, and is a consideration in processing this application, it is not a planning document and has not been through any formal inquiry or examination, so should therefore be afforded limited weight.
- 8.33 The Executive summary of the Hotel Scoping Study was published on the Department of Communities website in December 2016 and a redacted version of the full study published in 2017.
- 8.34 Section 5.13 of the study identifies the key features of an upmarket hotel scheme appropriate to the area as the following:
- circa 100 bedrooms (with sea-views if possible as this will be important)
 - on site car parking
 - conference/banqueting facilities to accommodate up to 350 theatre style/ 200 for banquets
 - a small number of breakout/meeting rooms (4 rooms accommodation up to 60 theatre style and which can also be used for small private functions)
 - high quality restaurant and bar facilities
 - health suite/space and swimming pool- these features will help extend the season
 - ideally the project will operate under a recognised international brand
 - on a site offering 4 to 5 acres of land (5acres = 2 ha.).

It is apparent that this proposal would deliver on this.

Economic considerations

- 8.35 The SPSS has five core planning principles which are set out in para 4.1. One is to 'improve health and well-being' and another is to 'support sustainable economic growth'. The SPSS requires Planning Authorities to support provision of jobs, services and economic growth to contribute positively to health and well-being. This is a need to take a positive approach to appropriate economic development proposals and proactively support and enable growth generating activities.
- 8.36 The Executive has a key commitment and priority to promote economic recovery and balanced growth; tackling disadvantage by ensuring economic considerations are accorded appropriate weight in the taking of planning decisions; and ensuring the speedy progression of decisions through the planning process. Para 3.3 of the SPSS states that in making planning decisions there is a need to ensure economic considerations are accorded appropriate weight.
- 8.37 The SPSS goes on to state that a modern, efficient and effective planning system is essential to supporting the Executive, and wider government policy, in its efforts to promote long term economic growth in the interests of all the people in this region and therefore a positive approach to appropriate economic development proposals should be taken to enable growth generating activities. Large scale investment proposals with job creation potential should be given particular priority.
- 8.38 The applicant has listed the following economic benefits of the proposal:
- £15million to deliver
 - Close to 100 full time-time jobs
 - Construction employment
 - £1.76m per annum in salaries and wages paid to staff
 - £560,000 per annum on food purchases and £181,000 per annum on beverage purchases.
 - £719,000 per annum on other operating expenses
 - The hotel spend is anticipated to be circa £3.2m on employment, local produce, products and services
 - Overnight guests at the hotel are anticipated to spend £5.65m per annum in the local economy and generate

around £8m per annum in visitor spend.

- 8.39 Tourism NI is a non-department public body of the Department of the Economy responsible for the development of tourism and the marketing of NI as a destination to domestic tourists from within NI and to visitors from the Republic of Ireland. It provides specialist advice on major tourism proposals. It advised that 'The Open' in 2019 will be the largest event NI has ever hosted as it is expected to attract 200,000 spectators over the competition days. Tourism NI expect it will further NI's reputation as a golfing destination and in particular build a positive image of the North Coast internationally and boost efforts to grow overnight visitor numbers and spend. Tourism NI estimate the spend per golfer coming to NI is significantly below that of Scotland, Wales and the Republic of Ireland and England due possibly to tourists taking day trips from Belfast and Dublin for the day rather than staying in the area.
- 8.40 In 2012 Tourism NI commissioned an independent evaluation of the NW200 which estimated that the event benefited NI business by £2.1m.
- 8.41 The NI Hotel Federation is the representative trade body for the hotel sector in NI has made representations on the application. It recognises the need for additional high end hotel accommodation in the North Coast for the staging of The Open 2019 and beyond. It is of the opinion that the proposal would support golf tourism which 'has been identified as a best prospect for NI supported by a £50m strategy'.
- 8.42 The R&A governs the sport of golf worldwide together with the United States Golf Association (USGA). The R&A organises 'The Open' which is golf's most international major championship and will be taking place in Portrush 14 - 21 July 2019. There is an aspiration by the R&A that 'The Open' will leave a legacy and it is of the opinion that the proposal will help serve that legacy.
- 8.43 The above comments made by Tourism NI, Northern Ireland Hotel Federation, and the R&A must be given significant weight when assessing the potential benefits of the proposal to not only the north coast but to the entire Region and the wider economy.

- 8.44 When assessing the positive and negative economic implications of planning applications there is a need to ensure the approach followed is proportionate to the scale, complexity and impact of the proposed development.
- 8.45 This proposal is a large scale investment which would create significant construction jobs and, when operating close to 100 full time jobs. There is a recognised need for high end accommodation in this location not only for The Open Championship but there has been an undersupply of provision for some years. Jobs, the economy and tourism are all matters discussed locally and regionally and this proposal would go some way in meeting an objective of the Executive creating jobs and investment to stimulate the local and regional economy and promote long term growth.

Impact on residential amenity

- 8.46 The SPPS states the planning system operates in the public interest of local communities and the region as a whole, and encompasses the present as well as future needs of society. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest.
- 8.47 The residents closest to the development are 120 Ballyreagh Rd which fronts the A2 and is located at the proposed point of access, 100 Ballyreagh Rd which is currently unoccupied on the approach lane to Ballygelagh Village. The other two closest dwellings are 108 Ballyreagh Road and 22 Ballygelagh Village both located in Ballygelagh Village on the south east boundary of the application site. Letters of objection have been received from 120 Ballyreagh Road, 108 Ballyreagh Road and 22 Ballygelagh Village on grounds of noise, odour and light spillage.
- 8.48 Whilst the proposal will be in proximity to the two dwellings on the edge of Ballygelagh Village (no. 108 and 22), due to the distance from the proposed development, the proposed design,

proposed landscaping and the present topography of the land, the proposal is unlikely to have an unacceptable over bearing visual impact. However it is necessary to consider the expected impact from noise, odour and light spillage on all properties concerned as well as considering the visual impact from all critical views some of which are nearby residential properties in Ballygelagh Village.

Noise

- 8.49 The applicant appointed Neo Environmental to undertake a noise impact assessment (Doc 07 Rev 01). This involved a desk based assessment to identify noise sensitive receptors within close proximity to the proposed development. Neo Environmental first undertook a survey to establish baseline noise conditions at two locations within close proximity to noise sensitive receptors. The first location of the noise monitoring equipment (A) was 25m south of 120 Ballyreagh Rd and the second (B) was located 20m south of 22 Ballygelagh Village.
- 8.50 The noise assessment acknowledged numerous noise sources from the development which were modelled. The three main areas of noise sources in the model were the hotel and service area, the demonstration restaurant and the holiday cottages. A simulation of noise which would be generated by the proposed development was provided using Sound Plan modelling software to predict noise levels. The assessment concluded that for both day time and night time the impact of the proposal would be deemed as either low or negligible at the noise sensitive receptors [Point 8.8 Summary of Document 07 Rev01]. The assessment made recommendations regarding the materials which should be used to minimise sound from the development, the use of acoustic grade fencing around the service area, a 1m high earth berm as screen planting to provide screening east of the access, the introduction of acoustic grade doors at all patron entrances and exits, the use of acoustic absorber panels on the roof of the conference area and the careful positioning of speakers away from openable doors or windows.
- 8.51 Environmental Health has been consulted as the competent authority on such matters and has raised no objection to the proposed development subject to conditions.

- 8.52 The submitted construction management plan considers the adverse impacts associated with site preparation/enabling and construction activities, due to noise, vibration, dust and light. The timescale indicated for the proposed works is estimated over an extended period of time (18 month duration), it is critical that adverse impacts associated with any such works are appropriately minimised to sensitive receptors.
- 8.53 Environmental Health considered the impact of noise and dust during the construction period and have recommended conditions to limit noise levels by applying best practice and mitigation measure in accordance with BS 5228, Parts 1 and 2, 2009, "Code of Practice for Noise and Vibration Control on Construction and Open Sites" and restricting hours of construction to 07:00 - 19:00 hours Monday – Friday, 07:00 - 13:00 hours Saturdays with no working permitted on Sundays. A condition to require dust mitigation measures is also proposed to safeguard amenity.
- 8.54 Having regard to the consultation response from Environmental Health, it is considered that the proposal will not have unacceptable adverse impacts on surrounding receptors. Of note is that separate legislation outside the remit of planning exists to investigate nuisance and protect amenity of residents.

Odour

- 8.55 The applicant appointed Neo Environmental to undertake an odour risk assessment to characterise the nature of the catering facilities and significant odour generating sources proposed as part of the development and to determine the level of odour control and abatement required to negate the risk of odour impacting on sensitive receptors. Odour would be expected to emanate from within the main hotel and the demonstration restaurant. The sensitive receptors identified included 50 Millbank Ave, 100 Ballyreagh Rd, 108 Ballyreagh Rd, 120 Ballyreagh Rd, 24 Ballygelagh Village, and the holiday cottages with the proposed development. 22 Ballygelagh Village is elevated 70m south of the Demonstration Restaurant and is likely to be most directly impacted by the cooking odours from this source and similarly 108 Ballygelagh Road and the

proposed holiday cottages.

- 8.56 The odour risk assessment considered that the proposed kitchens and restaurant within the main hotel would require a low to medium odour control abatement system to prevent odour release and a similar low to medium level odour control abatement system at the demonstration restaurant to prevent odour release from impacting nearby residential properties.
- 8.57 On receipt of the odour risk assessment (Doc 14) and the addendum to the odour risk assessment (received 21.02.2017) Environmental Health pointed out that whilst the assessments concluded that the impacts from odour were low to medium, the applicant had committed themselves to employing a high level of control in all kitchens. On this basis, Environmental Health advised that all odour abatement proposed in relation to cooking odours should meet the requirement of DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems and achieve a 'High level of odour control'. As there is a need to ensure sufficient mitigation measures are taken to protect the sensitive receptors from odour, a planning condition will be required to secure this.

Light

- 8.58 The applicant appointed Neo Environmental to undertake a light assessment (Document 18) to describe the proposed lighting and visual impact on the landscape along with taking into account the closest residential properties. The report considered the existing site to fall within the E2 classification as it is a rural area with low district brightness. Objectors have challenged this classification, stating that it should be E1 which describes a natural area as intrinsically dark (for example AONB). However, it would appear E2 is the more appropriate classification as this site currently has street lights adjoining it, it is located on the edge of a town with a number of residential properties in proximity. After identifying the base line condition of the site as rural (E2 zone), the report uses the Institute of Lighting Engineers guidance which sets out acceptable levels of illumination for each environment and various times of the day known as curfew. These are referred to as lux levels and in E2 the maximum light intrusion (into windows) is 5lux pre curfew and 1lux post curfew. Curfew is 2300 hours.

- 8.59 The development would include proposed lighting to illuminate buildings, walls, planting along with car parking lighting, roadway lighting, and access paths. The proposed external lighting plan (Drawing no. 55) annotates clearly that there will be no lighting columns over 2.4m in height across the development. The lighting at the entrance would be ground lights. For the scale of the development, the level of lighting is understated. The assessment concludes that residents will not have any obtrusive lighting or glare from the proposed lighting scheme and neither is the lighting considered to have an impact on wildlife or the environment.
- 8.60 The impact of the lighting on properties in proximity to the proposal is not considered to be at a significant level to result in a nuisance. Environmental Health, as the competent authority, has raised no objection on this matter. However, a condition will be necessary to ensuring the proposed lighting scheme is installed, operated and maintained to achieve the lighting standards stipulated within the light assessment (Document 18).
- 8.61 It is evident that that the outlook from some properties in Ballygelagh Village, Quarry Hill, 120 Ballyreagh Road and 100 Ballyreagh Road would change significantly. There would be noise, odour and light changes within the site and area. That said, having considered the information submitted in this regard, and consulting with Environmental Health, it is not considered to have an unacceptable adverse impact on residential amenity. The test in policy terms relates to amenity worth protecting in the public interest and not whether individual owners and occupiers of neighbouring properties would experience financial or other loss from a particular development. In this respect the proposed development has been carefully designed to protect the living amenities of residents in close proximity. There is never any guarantee that land will not be developed and, as such, views are not generally protected in planning policy. Any impact on amenity must be weighed against other matters, including any benefits of the development in reaching a balanced decision.

Design

8.62 Policy TSM 7 of PPS 16 sets out a list of design criteria which tourism proposals are expected to comply with. These are listed (a) to (f) and some aspects are considered within the wider report, such as lighting considerations. The policy places emphasis on good design and seeks the inclusion of public art which is included as part of this application.

Layout

8.63 The hotel building is 3 storeys, providing 119 bedrooms, exhibition space, conference centre and spa complex is to be positioned on the lower part of the site fronting the road. The hotel layout is to be T-shaped with the top on the T aligned to the eastern boundary of the site. The longest part (base of the T) would sit across the site providing bedrooms on all three floors.

8.64 The northern arm provides the NW200 visitor centre, exhibition space, NW200 office space, lounge bar and conference reception on the ground floor. It is to be served by its own access. The first floor of the northern arm would provide a conference room with terrace, break out space, kitchen and restaurant. The restaurant and break out /restaurant/overspill space has access to a first floor terrace. The second floor of the northern arm would provide spa facilities with a small terrace. The second floor footprint is smaller than the first floor as much of it would create a void space over the conference room.

8.65 The southern arm provides leisure facilities including a 20m swimming pool, spa facilities, changing rooms, gym class space, relaxation area, hot tub, and juice bar on the ground floor. It is served with its own entrance. The first floor of the southern arm provides meeting rooms and break out space for the conference centre on the eastern side and bedrooms on the western side, all served with individual outside terrace space. The second floor of the southern arm would provide bedroom accommodation.

8.66 The public areas of the hotel are sizeable and will provide suitable access for all without being overly restrictive. All floors are accessible by lifts.

8.67 The hotel service area is located on the eastern boundary screened with a 1.8m timber screen and landscaping to screen this from public view. A service route runs along the northern boundary of the car park to access the service yard.

Appearance

8.68 The hotel will have a dual frontage. The principal entrance to the hotel is on the northern elevation, however a secondary entrance is located on the southern elevation accessing the leisure facilities. Car parking is located both to the north and south of the hotel building with landscaping within these areas to help break up the hard surfacing.

Materials

8.69 The roof of the proposed hotel, holiday cottages and demonstration restaurant would include the use of sedum roofing. Other materials used on the hotel, cottages and demonstration restaurant, include dark grey natural stone work, anodised aluminium windows and doors, anodise/marine grade powder coated aluminium trims and flashing-grey, anodised aluminium/hardwood louvred solar shading, stainless steel/frameless glass balustrading and handrails.

Cottages

8.70 The proposal also includes the creation of nine holiday cottages to the south of the hotel which are positioned in a linear fashion and accessed off a single approach. Six cottages (Type A) is to the north of the approach and three larger cottages (Type B) to the south of the access road. Type A cottage is split level with two bedrooms on the lower ground floor and one bedroom with living space on the upper level. Type B cottage is single storey with four bedrooms. All cottages would be served with two parking spaces each and an outside amenity space.

Demonstration Restaurant

8.71 The demonstration restaurant is a single storey building and is set within the hill side to the south of the site. It provides a main area to do demonstrations with food, a smaller section for the dining experience along with a terrace to the front and western side. The demonstration restaurant is directly linked to the hotel operation, served by three parking spaces as it is anticipated that most users will be guests of the hotel, however any other

visitors are expected to use the main parking areas. A condition is necessary to ensure the restaurant operates as a demonstration restaurant and functions as part of the overall hotel operation.

- 8.72 The design is modern with architectural consistency between the buildings which results in a level of integrity to the scheme. The hotel building is large, consisting of up to 3 floors and an overall height of 11.5 metres rising to a highest point of 13.5 metres. There are significant amounts of glass within the buildings, particularly to the northern and western elevations, which maximise the views. These windows do not result in any unacceptable overlooking or loss of privacy of existing properties. The fenestration and mix of materials breaks up the bulk and mass. The use of a sedum roof softens the appearance. The positioning within the existing hillside is to be welcomed, as this and the built form along the ridge line provide a back drop, and it does not break the skyline.
- 8.73 Parking is located throughout the scheme, with main car parks to the front and rear of the hotel. This ensures there isn't a large 'sea' of car parking, and there is a detailed scheme of landscaping to break it up further. The landscaping and boundary treatment are considered satisfactory for a coastal location. The provision of public art throughout the proposal creates interest throughout the site. The use of low level lighting columns minimises their intrusiveness.
- 8.74 Having regard to the list of design criteria within TSM 7 it is considered that this proposal complies with this policy requirement.

Visual impact on the landscape

- 8.75 The land to the north of the Ballyreagh Road (A2) is within The Skerries and Dunluce Coast Seascape Character Area which was identified in the NI Regional Seascape Character Assessment. This is outside the development site but a viewpoint of the development is located on the public coastal footpath within the Skerries and Dunluce Coast Seascape Character Area. This Assessment recognises that coastal communities are heavily dependent on the income that visitors

bring to the area as a consequence of their wish to spend time at the sea. It also realises that the provision of well-designed and sensitively located visitor infrastructure in scenic coastal areas is critical to providing a positive visitor experience.

- 8.76 The landscape and visual impact appraisal undertaken by Neo environmental considers the development would have a low/negligible magnitude of change upon the setting of the Skerries and Dunluce Coast SCA resulting in an indirect minor adverse effect. It also considers the proposal to have minor beneficial effect through the improvement brought about to the urban/rural edge of town of Portstewart.

NI Regional Character Landscape Assessment

- 8.77 This proposal is located within Regional Character Landscape Area 16: North Coast and Rathlin. NIRLCA has been developed to meet commitments set out in Northern Ireland Landscape Charter. It includes a number of coastal processes that require protection, and protected areas. The popularity of these areas is likely to bring continued pressure for infrastructure upgrades, impacting on the perceived wildness of the coast. It says that “Recreational development, including car parking, caravan parks, hotels and golf courses, can form relatively prominent features along this coast.” While located on a coastal location, it will have no impact on its “perceived wilderness” given the level of existing built development surrounding the site.

- 8.78 The proposed site is located within an area of coastline that is not subject to any designation, such as AONB, unlike most of this coastline. Within the heading of “Built Development” of the NIRLCA, it recognises pressure from prominent farms and residential development, including second homes and holiday particularly those looking to reflect the traditional ‘clachan’ type. Although there is no commentary on hotels, this proposal and the holiday cottages present a modern contemporary feel and therefore does not seek to add to the existing clachan style of Ballygelagh Village. The proposal is located in an area that is less environmentally and visually sensitive than much of the coastline, and is therefore less likely to have any significant visual impact on any designations.

Northern Ireland Landscape Character Assessment

8.79 The site lies within Coleraine Farmland (LCA 54). The Coleraine Farmland landscape character area extends along the north coast from Castlerock to Portrush and southwards along the River Bann valley as far as Milltown. Much of the LCA focuses on the extensive and important sand dune systems when considering impacts, including the designated ASSI's and SAC. That said, the LCA states that the Key Characteristics are:

- Dramatic rocky coastline with indented broken cliffs of basalt to north of Coleraine.
- Rugged sand dune ridges create a distinctive wild landscape at the mouth of the Bann.
- Linear ridges and valleys, with rocky outcrops and gorse on elevated land; broader, open lowlands to east of Coleraine.
- The River Bann flows in a narrow, wooded valley to the south of Coleraine.
- Long coastal views to the Causeway Coast and to the Bann Estuary.
- Long strands.

8.80 The LCA goes on to state that the clifftops between Portstewart and Portrush are dominated by golf courses, which are well-established and integrated within this windswept setting, but exposed caravan parks and recent housing developments are often intrusive, particularly where they are sited on local skylines. Unlike Ballygelagh Village, this proposal is not sited on a skyline site.

8.81 The principles for new development within the LCA 54 which apply are considered below:

Small-scale landscape elements, such as an area of undulating landform, a network of field stone walls and a group of traditional buildings beside a church are important in this relatively large scale landscape and should be carefully conserved, together with their wider landscape setting.

- The application site is not within such a large scale landscape described due to its current condition and the

surrounding built form. The proposal seeks to respect the land form in that it has been designed to be absorbed into the natural topography of the site.

Woodland planting will create stronger landscape structure and identity in areas where housing is anticipated, particularly in relatively elevated areas, where planting will provide a backdrop to new development.

- Woodland planting is not considered to be suitable landscaping for a coastal location. It is not on an elevated site, and utilises the rising land to the south of the site to provide the proposal with a backdrop.

The use of local grey basalt for new buildings would reflect tradition and provide a sense of unity.

- There is a mix of materials used within this immediate area. As such it is not considered that a building of local grey basalt is determining.

8.82 While the LCA identifies the ‘Shore Platforms’ between Portrush and Portstewart, the proposed development is not likely to have an unacceptable impact on the Coastline due to its nature and location.

8.83 The LCA also identifies that Ringagree, the igneous bedrock has a wide variety of rock pools that are rich in flora and fauna. The upper shore has a mix of fucoids and ephemeral algae, whilst the mid shore region is characterised by mussels. Given the distance the proposed development is from Ringagree and the intervening road and other general development, there will be no detrimental impact on this area.

8.84 The adjoining LCA is the Causeway Coast and Rathlin Island LCA (LCA57). This LCA states that: *“The impact of tourists could be minimised through the sensitive design and location of visitor facilities such as signage, car parks, toilets and visitor centres. The location of hotels and caravan sites, as well as new housing, in less visually prominent positions, set amongst trees or in hollows rather than on exposed cliff-tops is advisable. Such development would be particularly intrusive*

and should be kept to a minimum.” By locating the proposed development at the Ballyreagh Road site, it could be argued to reduce the pressure of this type of development away from the more sensitive, scenic and heavily designated and protected part of the Causeway Coast, and away from cliff tops.

Landscape and Visual Impact Appraisal

- 8.85 The landscape and visual impact appraisal undertaken by Neo environmental assessment identifies landscape receptors which have potential of being affected by the proposal. It identified a total of 11 viewpoints which are representative of several receptor types from publicly available views. None of the selected viewpoints include private dwellings. It then considered the changes which would be experienced at each view point should the proposal be constructed.
- 8.86 Photomontages were produced for four of the viewpoints to help illustrate what the proposal would look like within the existing views. These four viewpoints are considered the critical viewpoints. It includes a viewpoint from the edge of Portstewart (viewpoint 3) which would be experienced by road users and those on the coastal path, a viewpoint near Rinnagree Point car park (viewpoint 6) on the corner of the A2, which would be widely experienced by road users and those on the coastal path, a viewpoint from the edge of Ballygelagh Village (viewpoint 7) experienced mainly by those residing in the Village and also a viewpoint directly north of the site at the entrance to Rinnagree Coastal Park car park which is experienced road users and those on the coastal path.

Approach from the west leaving Portstewart

- 8.87 The hotel would be completely visible from the edge of Portstewart however views of the holiday cottages and demonstration restaurant will be partially screened as a result of the existing rise in levels on the golf course. The existing post and wire fence along the western boundary would be renewed like for like and provide a measure of screening as it would be positioned nearly 3m higher than the access road and over 4m higher than the finished ground level surrounding the entrance into the leisure complex. The use of sedum roofing will in some way provide a level of integration towards the rear of the site but

there is no dispute the hotel building would sit above the skyline when viewed leaving Portstewart because of the perspective but it is not considered to dominate the view as it is set back off the road and seeks to utilise the existing land levels.

Approach from the east at Rinnagree Point car park (viewpoint 6)

8.88 This is an elevated viewpoint which looks down towards Portstewart and currently enjoys views of the fields and golf course. The immediate view is dominated by the existing NW 200 site, access lane to Ballygelagh Village and entrance to Quarry Hill development. The proposed hotel building would introduce a prominent building at this view point. Some of the holiday cottages and distant views of the demonstration restaurant would be available. The proposal includes the introduction of a timber screen 1.8m in height along the first part of the eastern boundary along with screen planting to the service area and further planting to the south of the service area. Due to its position set back off the roadside, some views of the hill side and golf course would be retained. With the positioning of the proposal in the existing hillside, introduction of landscaping to provide screening and the subtlety of proposed lighting, the proposal is not considered to appear incongruous on this edge of settlement site from this viewpoint. Much of this immediate and surrounding landscape is already developed, and often on more prominent land, and when you approach from the east (Portrush) there are two road side caravan parks which are less visually appealing.

Views from the south on the edge of Ballygelagh Village (viewpoint 7)

8.89 The current view from this location captures the sea and long distant views of Donegal, however the immediate view is the area of hardstanding used at the NW200 which includes lighting columns, electricity poles fencing and hard surfacing. The proposal would change this outlook as the viewpoint would then be dominated by the rear view of the leisure complex, the conference centre and the rear view of the hotel block. The outlook would also include the roof of the demonstration restaurant which would be partially screened by the earth mound, the upper holiday cottages and the car parking area to the rear. There is only one access route which runs along the western boundary and serves the western side of the

demonstration restaurant and serves both linear groups of holiday cottages. This layout reduces the area of hard surfacing and parking when viewed from Ballygelagh Village. The photomontage produced shows sea views to the west of the hotel being retained but it would result in the loss of sea views directly to the north. The proposed landscaping and low level of lighting along with the proposed pathways and car parking would break up the view. The landscape and visual impact appraisal considers the proposal would have a major/moderate adverse visual effects from this viewpoint. The dwellings and holiday homes within Ballygelagh would retain an elevated position with sea views, however it is from this viewpoint that impact on sea views will be most significant. While considering this matter, the planning system must operate in the interests of the public and therefore a balanced decision must be reached in terms of what is given determining weight.

- 8.90 While there is a path running from the south of Ballygelagh Village and through onto Ballyreagh Rd an objection states that this is a Right of Way. However, this does not appear to be an asserted right of way. That said, the impact from this land has been considered and it is considered that as this is not heavily used by pedestrians and walkers, that the overall impact is unlikely to be significant.
- 8.91 The sections through the site provided by the applicant depict (drawing 08, 54 and 37) the highest point of the hotel roof would be 33.25m AOD, the highest point of the demonstration restaurant roof would be 34.2m AOD. These roofs would be against the backdrop of the hillside which at its highest point is 36.15m AOD and the roof ridge of the highest point in Ballgelagh Village is 41.8m AOD. As such the proposed development would sit within the site levels and is contained within the existing landform and development.
- 8.92 The proposal would be on the edge of Portstewart settlement and is not a remote rural area with a greenfield site. There are significant areas of hardstanding used by the NW200 and other events throughout the year, the proximity to Portstewart and the golf course to the west/north west, and the existing built form to the south (Ballygelagh Village) and north east (Quarry Hill).

Views form the north at Rinnagree Point Coast Park car park (viewpoint 9)

8.93 The view is directly north of the application site. The current view includes the area of hardstanding used by the NW200 and other events and the houses in Ballygeleagh Village. The views of the proposal from this location would be similar to viewpoint 6 as it would be dominated by the hotel/ visitor centre and create a prominent building on the edge of Portstewart. The hotel would obstruct any views of the holiday cottages or demonstration restaurant to the rear of the site. While there would be prominent views from this land, those using the car park or enjoying the coastal path would not be adversely affected by the proposal as it is obvious the main enjoyment and views would be the panoramic sea views stretching from Donegal in the west over to the Portrush Peninsula to the east rather than those looking south. The impact on views is also reduced as the buildings are contained within the existing landscape and built form.

8.94 Criterion C of Policy TSM3 (PPS16) relates to new build hotels on the periphery of a settlement. It requires the development to be close to the settlement, but not dominate it, adversely affect the landscape setting, or otherwise contribute to urban sprawl. This proposal would be a prominent building on the edge of Portstewart. Given the size of Portstewart and the proposed position of the development set back off the road side, the existing topography with the proposal contained within the landform and built development, the proposal is not considered to dominate it or adversely affect its landscape setting. With regards urban sprawl, the land between Portrush and Portstewart, particularly on the southern side of the Ballyreagh Road, has been developed in a piecemeal fashion over time with caravan parks, singles dwellings and holiday let development which has marred this landscape between the 2 settlements. Given there is built form to the rear of this site, linking Portstewart to the development on the east, and the significant level of hardstanding, it is difficult to envisage how this site would link Portstewart with Portrush.

8.95 The built form is considered acceptable and compatible with the surrounding area which will not detract from the landscape quality or character of the area. The proposal will not restrict

any access to the coast or tourism asset.

- 8.96 Having regard to all the views surrounding the site, and in particular the critical views, the proposal will have a visual impact on the landscape. However, it is considered that, on balance, these impacts are not so significant and unacceptable in policy terms to carry determining weight in this case and warrant withholding of planning permission. It is therefore considered that this proposal complies with policies TSM7 of PPS 16 and CTY13 & CTY14 of PPS21.

Impact on SLNCI and LLPA's

- 8.97 The land to the south west is designated as a Local Landscape Policy Area (LLPA: PTL05 Rockview). This LLPA incorporates a Site of Local Nature Conservation Importance (CNC04 - Portstewart Old Links). The land to the north is also designated as a Local Landscape Policy Area (PTL04 Golf Links and Eastern Coastal Area). The SLNCI is described as unmanaged areas retaining typical dune grassland communities with records for Scots Lovage. Local Landscape Policy Areas are designated due to their important amenity value, landscape quality and significance.

- 8.98 The development is not within the SLNCI nor has this land been considered to be included within it. Due to its location, it is unlikely to have any significant adverse impacts on Portstewart Old Links Site of Local Nature conservation Importance and as such accords with Policy NH4 of PPS2: Natural Heritage.

- 8.99 The site is not located within either of the two Local Landscape Policy Areas (Golf Links and Eastern Coastal Area and Rockview). Therefore, the Local Landscape Policy Area policies set out in the Northern Area Plan do not apply to this proposal. Notwithstanding the above, the proposed development would add to the already visible built form when viewed from nearby LLPA's having a minor adverse indirect effect.

Northern Area Plan Examination in Public

- 8.100 In the Examination in Public into the Northern Area Plan, the

Planning Appeals Commission considered an objection (5600) from Dale Singleton Planning Partnership on behalf of Cherry Tree Holdings Ltd. This representation sought the allocation of land which at that time was Greenbelt, for tourist and tourist related development. It is noteworthy that this representation was for the field adjacent to the application site and lands to the south and east of the access to Ballygelagh Village. Other than an access across part of the red line site, this land relates to different parcels of land outside of the application site.

8.101 Notwithstanding that the Examination findings relates to a different site, the objectors have raised this as a matter of concern and that it should be given significant weight. The Commission findings considered the land an “*..important physical and visual break between Portrush and Portstewart which should be retained free from any unnecessary development. The objector did not provide any persuasive over riding case of need to support tourism development on this land.*” Therefore, within the evidential context of the Examination in Public, the PAC was not satisfied by any overriding need to support tourism. However, the planning context has now changed. This finding does not relate to the land on which the application is proposed, the land is no longer Greenbelt, the planning authority has changed and there is now Regional policy on tourism (PPS 16) as set out in the PAC recommendation. Any decision must have regard to PPS16. Having regard to local and regional policy, it is considered that these carry greater weight in the assessment of this application, to the findings of the Examination in Public into the Northern Area Plan relating to an adjoining site.

Impact on Archaeological Potential

8.102 At pre-application stage the Historic Monument Unit of the Historic Environment Division (HED) advised that given the scale of the proposal, its proximity to the coastline, and the known archaeological remains in the vicinity, that there is a high potential for previously unknown below ground archaeological remains.

8.103 In accordance with advice from HED the application was accompanied by a Cultural Heritage Impact Assessment. It

considered all potential direct and indirect impacts upon designated and non-designated heritage assets within a 5km radius study zone. It concluded that the proposal would have an overall low potential direct or indirect impact upon designated and non-designated assets within the surrounding area.

8.104 HED was consulted with the Cultural Heritage Impact Assessment as the competent authority on archaeological matters and it raises no objection to the proposal. A condition is necessary to secure the implementation of a programme of archaeological works. As such, the proposal satisfies the policy requirements of Policy BH4 of PPS6.

Impact on the Coast

8.105 While this proposal is not located directly on the coast, and there is intervening land and the A2 between the application site and the coastline, it is within proximity to it and is given due consideration. While the SPPS acknowledges the importance of the Causeway Coast, it goes on to say that much of the entire coast is designated within Areas of Outstanding Natural Beauty, Areas of Special Scientific Interest, or as Marine Conservation Zones. It is noteworthy that this site lies outside any of these formal designations or zones. The regional strategic objectives for coastal development set out in the SPPS are to conserve the natural character and landscape of the undeveloped coast and to protect it from excessive, inappropriate or obtrusive development; and to facilitate appropriate development in coastal settlements and other parts of the developed coastline that contributes to a sustainable economy and which is sensitive to its coastal location. The SPPS also recognises that new development must normally be directed into coastal settlements and other parts of the developed coast. Furthermore the SPPS explains that within the developed coast, areas of amenity value (such as parks, outdoor sports / play areas and coastal walkways) and areas or features designated for their importance to the archaeological, built or natural heritage, should be protected from inappropriate development. This area lies within part of the developed coast outwith any of the areas identified as an area of amenity value. The proposal satisfies this section of policy. It also complies

with the relevant criterion in TSM7 of PPS 16.

Traffic and Parking

8.106 PPS3: Access, Movement and Parking advises that some large scale development projects likely to generate significant volumes of traffic may require a transport assessment. This application has been accompanied with a Transport Assessment (Document 5) to consider the proposal in terms of its impact on existing transport movement and infrastructure. It following the guidance set out in Policy AMP6 of PPS3.

8.107 This site is located south of the Ballyreagh Road (A2) which is a protected route. In October 2006 the then DOE published Planning Policy Statement 3 (PPS 3) Access, Movement and Parking Clarification of Policy AMP 3: Access to Protected Routes. On publication of PPS 21 in 2010, Annex 1 of PPS 21 updated Policy AMP 3 of PPS 3 as the majority of greenbelts and CPA's were removed on publication of this document (PPS21). This application falls to be considered as "Other categories of Development". The policy allow development access onto protected route in circumstances when this cannot be achieved onto an adjacent minor road and where it is an acceptable form of development in the countryside. On the basis that the principle of development is acceptable, and there is no nearby minor road offering access to the site, the proposal is required to use an existing access. In this instance there is no viable option of access onto the site from a minor road, and the proposal utilises an existing relocated access and is considered acceptable. DfI Roads has been consulted on this matter and raises no objection in this regard. In all cases, where access to a Protected Route is acceptable in principle it will also be required to be safe in accordance with Policy AMP 2.

8.108 The Transport Assessment estimated the likely traffic generation (based on the average number of daily users from the economic assessment) with a 20% reduction for car sharing use of other modes of transport. It estimated that on a daily basis, the average no. of vehicles to the site and from the site would be 218. The assessment attributes 80 of these vehicle movements by staff, 128 by visitors/customers and 10 for goods

deliveries. It also identified that the number of movements per day would exceed 500 at certain points in the year and it is for this increased use that necessitated a right hand turn lane off the protected route in accordance with DCAN 15: Vehicular Access Standards Right Turning Lanes.

8.109 DFI Roads was consulted on the proposed development as the competent authority on road and traffic matters and it raises no objection to the Transport Assessment or the proposed access arrangements.

Car parking

8.110 The Transport Assessment anticipated the need for 318 car parking spaces, 3 service vehicle spaces and 49 cycle spaces. These were provided on the master plan with an additional area to the north annotated 'overspill parking'. Following discussions with DFI Roads and implementation of the Parking Standards, DFI Roads advised that the development should be served by 355 car parking spaces, but DFI Roads accepted 318 subject to them being provided a permanent parking spaces. Consequently a revised masterplan (Drawing no. 04D) was received with the integrated northern 'overspill parking' area into the overall parking layout. A small hedge now delineates the service road and parking area. A more substantial landscaped area sits more centrally within the car parking area to the front to break down the hard surfaced area.

8.111 DFI Roads also raised a concern in relation to the northern parking area and service route as it has in the past been used by the NW200 during race week. The planning system does not exist to protect the private interests of one person against the activities of another as stated in para. 3 of the SPPS. The Coleraine and District Motor Club who operate and run the NW200 have at no stage raised concern that the NW200 would be unable to operate if this proposal was built. It is a matter for the hotel operator to operate during road closures which is no different to Inn on the Coast (which is also located wholly within the circuit) or any other business within the triangle circuit.

8.112 DFI Roads has been consulted as the competent authority in

relation to traffic, access, and parking matters and raises no objection to the proposal.

Drainage

8.113 The applicant appointed Ivan Scott Associates Ltd to complete a Drainage Assessment (Document 16A) for this proposal. It made the following conclusions:

- The site is not affected by flooding due to fluvial or coastal hazards.
- The site is subject to pluvial flooding from overland flows.
- There is no evidence of historical flooding at the site, however the Strategic Flood Map indicates the site is susceptible to surface water flooding in localised areas.
- An assessment of the proposed development on overland flows and drainage infrastructure was made. Two drainage design options were proposed, Option 1 with no attenuation and Option 2 with attenuation and discharge limited to a rate of 52 l/s.
- A Schedule 6 application will be made to Rivers Agency for consent to Discharge storm water into the North Atlantic Ocean via the existing drain and culvert.
- Foul drainage will be discharged into the existing sewer located on the Ballyreagh Rd.
- The flood risk due to the proposed development is not considered significant and this assessment considers the development complies with PPS15, FLD4, subject to approvals.

8.114 Rivers Agency and Northern Ireland Water have been consulted as the competent authorities on drainage matters and raise no objection to the proposal. As the applicant has not specified a preferred drainage design option and either option within the report is considered acceptable, a condition is necessary to confirm and agree the finalised design option before development commences.

North West 200 Area

8.115 The proposal will also help with the delivery of the NW200 given its site specific location adjacent to the pits/start/finish area of

this event. While an element of the main hotel building is to be utilised for the organisers of this event, this is small, (@300msq net internal floor space). Having regard to the scale of the NW200 as an event is of scale not disproportionate to this and it is small when considered with the overall size and scale of the proposed building and complex. Although there may be a strong economic argument to provide this a permanent base, the uses must also be considered against the relevant policies.

8.116 The proposal includes an exhibition area / shop. Paragraphs 6.267 to 6.292 of the SPPS set out Regional Policy in relation to Town Centres and Retailing. While retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted there is a general exception to this. Paragraph 6.279 of the SPPS states that as a general exception to the overall policy approach, some retail facilities which may be considered appropriate outside of settlement limits include shops serving tourist or recreational facilities and such retail facilities should be required to be located within existing buildings. Given the overall scale of this part of the proposal, and it is located within the proposed building, and it is a shop serving a tourist facility, it is considered that this proposal complies with Paragraph 6.279. It is also considered that considering the scale and nature of the retail tourist offer, there will be no unacceptable adverse impact on the vitality and viability of Portstewart town centre. A condition is necessary to limit the scale of the use.

8.117 The office development falls to be considered as Use Class B1 (Offices). The scale of this is very small and is ancillary to the overall scale and nature of the application proposed. There is no land zoned for economic development within Portstewart and there is a site specific argument that this building provides a permanent home for the NW200 at this location.

8.118 Policy PED 2 is the policy for considering economic development in the countryside. It sets out in what circumstances this may be acceptable. The scale and nature of this proposal does not fall within any of the categories listed. In this case the policy states that all other proposals for economic development in the countryside will only be permitted in exceptional circumstances. The SPPS recognises that

economic development outside settlement limits must be resisted, however acknowledges that a small scale new build economic development project may be permissible outside a village or small settlement where there is no suitable site within the settlement and that an edge of settlement location will be favoured. Having regard to these policy considerations, and although Portstewart is not a village or small settlement, it does not have any land zoned for economic development. Furthermore, there is a site specific consideration for having office space within this building for helping to deliver the NW200. The overall scale of the office space is limited to a small office area that may accommodate no more than 5 people. It is also located on the edge of the settlement which is the favoured location set out within the SPPS. On balance, it is considered that the scale and desire for limited office development within this building is exceptional, and therefore meets policy. A condition limiting the scale and nature of this is necessary.

Consideration of Objections

8.119 Notwithstanding that many of the objections raised have been considered under the correlating or relevant subject headings within this report, further consideration is given below to address any outstanding objections:

- Principle/Economic Need: The predominant use of the proposal would be a large hotel, incorporating conference and spa facilities. There are holiday cottages, NW200 centre and demonstration restaurant operating incidentally to the main use. As such the proposal has been considered and assessed as a hotel with due weight given to the impact of all components.
- TSM4 was not applied for reasons set out in paragraph 8.14. It is not considered a departure from the development plan requiring a call-in and this was confirmed by DfI who, in response to a request from a third party to have this application called in, stated that the local council was best placed to deal with such an application.
- There is no supplementary text or guidance as to how

far a sequential test should extend. The locality has been assessed and no alternative site has been identified within the settlement limits of Portrush or Portstewart which are two of the most popular tourist towns within Causeway Coast and Glens Borough and it is considered this was an adequate assessment for this purpose.

- Residential Amenity: This is considered thoroughly throughout the report under various headings. A bund to the west of no.120 Ballyreagh Road is proposed as part of the scheme to help reduce the impacts on the amenity of this property. Environmental Health has been consulted as the competent authority on residential amenity matters and it raises no objection subject to the mitigation measures being put forward to protect residential amenity. As such other than the loss of a view and the change in character of the area, there is no significant detrimental impact as to withhold planning permission.
- Some of the matters raised regarding residential amenity such as the de-valuation of properties, or the impact on an individual's view, are afforded little weight in a planning context.
- Natural Environment: The impact on the setting of the Skerries and Causeway SNI, LLPA and SLNCI are considered within Paragraphs 8.97-8.99. In considering protected species and in particular wintering seabirds, NIEA has confirmed that, according to records, open coast line such as that adjacent to the development site tend to lack extensive areas of soft sediments containing high numbers of prey items, therefore they typically hold much lower densities of wintering water birds than estuarine coasts. No parts of the open coast in the vicinity of Portstewart hold nationally significant number of wintering Oystercatcher or Curlew. As such any impact is very likely to be limited to displacement from roosting area, for which alternatives are widely available along the adjacent coast. NED concluded that the impact of this project on wintering waders is unlikely to affect survival or

productivity to a degree that would have a significant adverse effect at the source population level. NIEA has not raised any objection to this proposal.

- The design has been considered within Paragraphs 8.62 – 8.74. The design is also considered under different policy to a balcony on a dwelling, and each application must be assessed on its own merits.
- Access and Traffic: This is considered under paragraphs 8.107-8.114. DfI Roads has been consulted as the competent authority on such matters and raises no objection. It is considered to comply with the policy requirements of PPS3, PPS13, PPS21 and DCAN 15.
- Other: Heritage assets to the north are considered under paragraphs 8.104-8.106.
- Planning legislation does enable applications to be made to vary Section 76 agreements but in considering any such application, the Planning authority would make a decision based on the Development Plan and all other material considerations just in the same way as it has done for the present application. However, in this case it is recommended that the development be regulated by planning conditions.
- An issue has been raised in regard to representations which have been submitted electronically and that there is a need to seek postal addresses of those individuals. It is unclear as to the reason why this matter has been raised or the nature or need for this information. However, all individuals who have submitted representations, either by post or electronically, are notified, if necessary, by the means in which they have communicated with the Planning Authority.
- The granting of planning permission would not allow for inappropriate alternative uses if for some reason the proposal does not go ahead. Any future use is purely conjecture and would be subject to, and assessed

against, the relevant planning policy prevailing at that time.

- The overall start to end construction period is not a matter that the Planning Authority would seek to condition.
- Environmental Health has been consulted as the competent authority and has suggested that a condition is applied restricting construction hours. On considering the objections, it is considered that this condition should also apply to delivery vehicles.
- Under Part 5 Class A, Temporary Buildings And Uses, any temporary buildings benefit from Permitted Development.

9.0 CONCLUSION

- 9.1 This is a significant proposal on the edge of Portstewart, located just outside the existing settlement limit and adjoins the Old Portstewart golf course. Given the scale of the development, it will have an impact on the immediate environment and has generated much objection. However, it will not directly impact or effect any designated or protected site or species.
- 9.2 There is a significant economic factor in terms of employment both during construction and longer term within the hotel and its ancillary uses. There are also economic benefits to the local and wider economy with the proposal gaining support from several official organisations which should be given significant weight. There is also strong local and wider support for the proposal.
- 9.3 The proposal requires access onto a protected route and it satisfies policy in this regard. The proposal has been considered against other environmental criteria and also satisfies policy.
- 9.4 The general design, layout, uses and principle of the proposed hotel and ancillary buildings are considered acceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS and PPS16. The site is on the edge of the settlement limit of Portstewart which

allows for the principle of development as it satisfies the criteria of TSM 3. The proposed holiday chalets are considered acceptable in their context and the proposal complies with policy requirements set out in TSM 5. The conference facilities, spa and leisure element, demonstration restaurant, retail element and office use for the NW200 comply with the relevant policies and are considered acceptable as part of the wider hotel offering. When balancing the proposal against the objections and any likely impact on general amenity, including visual and residential issues, approval is recommended.

10. CONDITIONS

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

2. The exhibition space and tourist retail offer hereby approved, shown in the area shaded orange on Drawing No 04D date stamped received 8th May 2017 shall be restricted to a maximum floor space of 150sq metres measured internally

Reason: To enable the council to control the nature, range and scale of retailing to be carried out at this location so as not to prejudice the continuing vitality and viability of existing town centres.

3. The office use and meeting room hereby approved shown in the area shaded orange on Drawing No 04D date stamped received 8th May 2017 shall be restricted to a maximum floor space of 90sq metres measured internally

Reason: To control the size and scale of this use due to its location outside the settlement limit.

4. The self-catering accommodation hereby approved, Type A and Type B and coloured green on drawing no. 04D dated 8th May 2017 shall be used only for holiday letting accommodation only and shall not be used for permanent accommodation.

Reason: The site is located outside the settlement limit of Porstewart where planning policy restricts development and this

consent is hereby granted solely because of its proposed holiday use.

5. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no building, structure, hard surface or enclosure incidental to the enjoyment of the holiday cottages hereby approved shall be erected within the site as indicated by the redline on Drawing No. 01 date stamp received 20th October 2016.

Reason: To preserve the visual amenity of the countryside.

6. The self-catering accommodation hereby approved, shall not be occupied until the hotel building is complete and fully operational.

Reason: To ensure the delivery of the hotel building which is the primary use of the site.

7. The demonstration restaurant hereby approved, shall not become operational until the hotel building is complete and fully operational.

Reason: To ensure the delivery of the hotel building which is the primary use of the site.

8. The demonstration restaurant hereby approved is limited to Class D1, Community and Cultural Uses of the Schedule of the Planning (Use Classes) Order (Northern Ireland) 2015 and for no other purpose.

Reason: In the interests of neighbouring amenity.

9. All hard and soft landscaping shall be carried out in accordance with drawing No. 38B dated 11th May 2017 and 39B dated 11th May 2017 and the appropriate British Standard or other recognised codes of practice. The works shall be carried out prior to the occupation of any part of the development hereby approved.

Reason: To ensure the provision of a high standard of landscape.

10. The scheme of planting hereby approved shall be carried out in accordance with drawing No. 38B dated 11th May 2017 and 39B dated 11th May 2017 during the first available planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape in the interests of visual amenity

11. The scheme of planting hereby approved shall be carried out and thereafter maintained in accordance with the Landscape Design Statement Doc 12 Rev01 dated 11th May 2017 and Landscape Management and Maintenance Plan Doc 11 Rev 01 dated 11th May 2017 unless otherwise agreed in writing by the Council.

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

12. No development shall commence until surface water drainage works on-site and off-site have been submitted to, and approved in writing by the Council. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Council.

Reason: To ensure adequate and suitable drainage from the site and safeguard the site and adjacent land against flooding and standing water.

13. 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 Council. 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.

14. 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.

15. All construction activity shall be confined within site boundaries, and the boundary of the designated areas shall not be disturbed in any way without written consent from the Council.

Reason: To protect the integrity of Skerries and Causeway SCI, and to avoid it being damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended).

16. No development shall commence until a final Construction Environmental Management (CEMP) Plan has been submitted to and agreed by the Council, in consultation with NIEA. This must reflect if any pile driving, rock dumping, blasting or drilling works associated with the proposal is required and all mitigation and avoidance measures to be employed to include a noise risk impact assessment.

Reason: To prevent any injury or disturbance to sensitive receptors such as European protected species Harbour porpoise or nationally protected species such as seals.

17. Site preparation, enabling and construction works, including associated deliveries, shall be undertaken in accordance with Sections 5.10 and 5.11 of the Construction Management Plan, October 2016 (Document 13A, date stamped 21st February 2017). Noise and vibration impacts shall be minimised and controlled by employment of best practice and mitigation measures in accordance with BS 5228, Parts 1 and 2, 2009, "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

Reason: In the interests of residential amenity.

18. Site preparation, enabling and construction works and associated deliveries, shall not take place outside of the following hours, without the prior written consent of the Council:

- 07:00 - 19:00 hours Monday - Friday
- 07:00 - 13:00 hours Saturdays
- No working on Sundays

Noise levels shall not exceed the threshold values as stipulated within Section 5.10 of the Construction Management Plan.

Reason: In the interests of residential amenity.

19. Noise levels during construction shall not exceed the threshold values as stipulated within Section 5.10 of the Construction Management Plan.

Reason: In the interests of residential amenity.

20. The proposed noise bund, indicated on Drawing No. 57 date stamped 7th April 2017, to the west of No.120 Ballyreagh Road, Portstewart, and adjacent to the proposed access road, shall be constructed and retained in perpetuity prior to the construction of the hotel building.

Reason: To safeguard the amenity of No.120 Ballyreagh Road, during and after construction.

21. Dust mitigation measures shall be implemented during site

preparation, enabling and construction works including deliveries to minimise the generation and movement of dust from the proposed development to sensitive receptors. The dust mitigation measures employed shall be in accordance with the Institute of Air Quality Management, "Guidance on the assessment of dust from demolition and construction, (2014)".

Reason: In the interests of residential amenity.

22. The rated noise emissions from the permitted development, measured in accordance with BS 4142:2014 "Methods of rating and assessing industrial and commercial sound", shall not exceed the levels within Table 1 – Noise Limits:

Table 1 – Noise Limits

Receiver	Daytime 07:00 – 23:00 hours, (LAeq, 1 hour)	Night-time 23:00 – 07:00 hours, (LAeq, 15mins)
Stone Coottage, Ballygelagh Village	36.6dB	32.4dB
108 Ballyreagh Road	35.8dB	31.8dB
1 Ballygelagh Village	34.4dB	30.8dB
3 Ballygelagh Village	34.1dB	30.4dB
120 Ballyreagh Road	40.6dB	39.3dB
50 Portrush Road	34.7dB	33.9dB
49 Portrush Road	34.1dB	33.2dB
100 Ballyreagh Road	33.7dB	31.1dB

Reason: In the interests of residential amenity.

23. Within 6 months of the development first accommodating paying guests, or within 4 weeks of the Council being notified of a reasonable noise complaint, from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the permitted development operator shall at his/her expense employ a suitably qualified and competent

person to undertake a noise survey to assess the level of noise immissions from the permitted development. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with all plant and equipment fully operating. Details of the noise monitoring survey shall be submitted to the Council for written approval prior to any monitoring commencing, at least 2 weeks notification of the date of commencement of the survey shall be provided. The noise survey information shall be provided within 3 months of the date of a written request from the Council.

Reason: In the interests of residential amenity.

24. If during the development works, new contamination or risks are encountered which have not previously been identified, works shall cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of human health and environmental receptors to ensure the site is suitable for use.

25. After completing any remediation works required under Condition 24 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report shall be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of human health and environmental receptors to ensure the site is suitable for use.

26. The extraction systems to all kitchen areas shall be designed and operated in accordance with best practice and performance requirements as detailed within DEFRA Guidance, (2005) "Control of odour and noise from kitchen exhaust systems" and

shall be installed and maintained to achieve the odour control criteria commensurate with those detailed as: "High Level of Odour Arrestment Plant Performance".

Reason: In the interests of amenity.

27. The lighting scheme for the development hereby approved shall be designed, installed, operated and maintained to achieve the Lighting Standards stipulated within the "Light Assessment Report at Proposed New Hotel at Portstewart" (Document 18, date stamped 29th March 2017) and detailed on Drawing No.55 date stamped 29th March 2017.

Reason: In the interests of amenity.

28. No development shall begin until the vehicular access, including visibility splays and right turn lane are provided in accordance with Drawing Nos 56 (Access Detail Plan), 43C (Longitudinal Section), 40C, 41C, 42C, 46C, 53A (Cross Sections) bearing the date stamp 3rd April 2017 and Drawing No. 52C (Construction Details) bearing the date stamp 15th May 2017. 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.

29. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 56 bearing the date stamp 3rd April 2017.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

30. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road

have been completed in accordance with the details outlined blue on Drawing No. 56 bearing the date stamp 3rd April 2017. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

31. The access gradient to the development hereby permitted shall not exceed 4% (1 in 25) over the first 20 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.

32. The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No. 38B bearing date stamp 11th May 2017 to provide adequate facilities for parking, servicing and circulating 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 of customers and staff of the approved development.

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

33. All services within the development should be laid underground.

Reason: In the interests of visual amenity.

Informatives

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.

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.

This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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 Planning Authority or other statutory authority.

Environmental Health

Entertainment Licensing Regime – Noise

The applicant is duly informed that should entertainment be intended to be provided to the public, that specific legislative requirements pertain, a licence will be required from Causeway Coast and Glens Borough Council under the Local Government (Miscellaneous Provisions) (NI) Order 1985.

Any associated noise impacts will be controlled via the aforementioned regime (conditions of the licence) to ensure that entertainment noise levels will not adversely impact neighbouring dwellings.

Food and Health and Safety Legislative Requirements

The applicant is advised that all new food premises must be registered with Causeway Coast and Glens Borough Council, Environmental Health Services Department under Regulations EC 852/2004, this should be completed prior to opening.

The premises will be regulated under Food Safety and Health and Safety legislative requirements, the applicant may wish to discuss specific design/layout and conformance requirements at an early stage, with officers within the Environmental Health Services Department.

Refuse Collection

The applicant shall ensure that there is suitable and sufficient provision for storage of refuse adequate facilities shall be provided to

obviate impacts due to pests, odour and litter. Waste storage receptacles shall be utilised and emptied without giving rise to adverse impacts to sensitive receptors in the locality.

LPG Installation

The applicant is advised that any proposed LPG installation will be required to be risk assessed, designed, built and installed in accordance with the UK LPS Code of Practice Part 1 - Bulk LPG Storage at Fixed Installation: Design, Installation and Operation of Vessels Located Above Ground.

DFI Roads

The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewer

The Applicant is advised that developers are also now responsible for the cost of supervision of the construction of streets determined under The Private Streets Order. A fee of £1,000 plus 2% of the total Bond value will be paid directly to TransportNI before the Bond Agreement is completed.

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.

The applicant is advised to contact the Street Lighting Section at County Hall, Coleraine in order to arrange the relocation of existing street lighting equipment.

Rivers Agency

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

NI Water

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.

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.

Historic Environment Division

For guidance on the preparation of the Written Scheme and Programme of

Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact: Historic Environment Division – Historic Monuments, Causeway Exchange, 1–7 Bedford St, Belfast, BT2 7EG, Tel: 02890 823100, Quote reference: SM11/1 LDY 3:9

Application for the excavation licence, required under the *Historic Monuments and Archaeological Objects (NI) Order 1995*, should be submitted at least 4 weeks before work is due to begin, by a qualified archaeologist responsible for the project, to: Historic Environment Division – Historic Monuments Unit
Causeway Exchange, 1–7 Bedford St, Belfast, BT2 7EG

NI Environment Agency

Marine National Protected Species

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 maximum*), 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.

Marine European Protected Species

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_a11.pdf

