

**Derry City and Strabane District Council Planning Committee Report**

**COMMITTEE DATE:** 2nd November 2016

**APPLICATION No:** LA11/2015/0142/F

**APPLICATION TYPE:** Change of Use of Land

**PROPOSAL:** Change of use from farmland to outdoor recreation area to include dual zipline facility

**LOCATION:** 227 Glenshane Road, Strathall, Derry- Londonderry

**APPLICANT:** Mr Allen, 227 Glenshane Road, Derry-Londonderry, BT47 3EW

**ADVERTISEMENT:** 03.06.2015

**STATUTORY EXPIRY:** 17.06.2015

**RECOMMENDATION:** APPROVE

**REASON FOR PRESENTATION TO COMMITTEE:** Major Development

All planning application forms, drawings, consultations, letters, objections etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

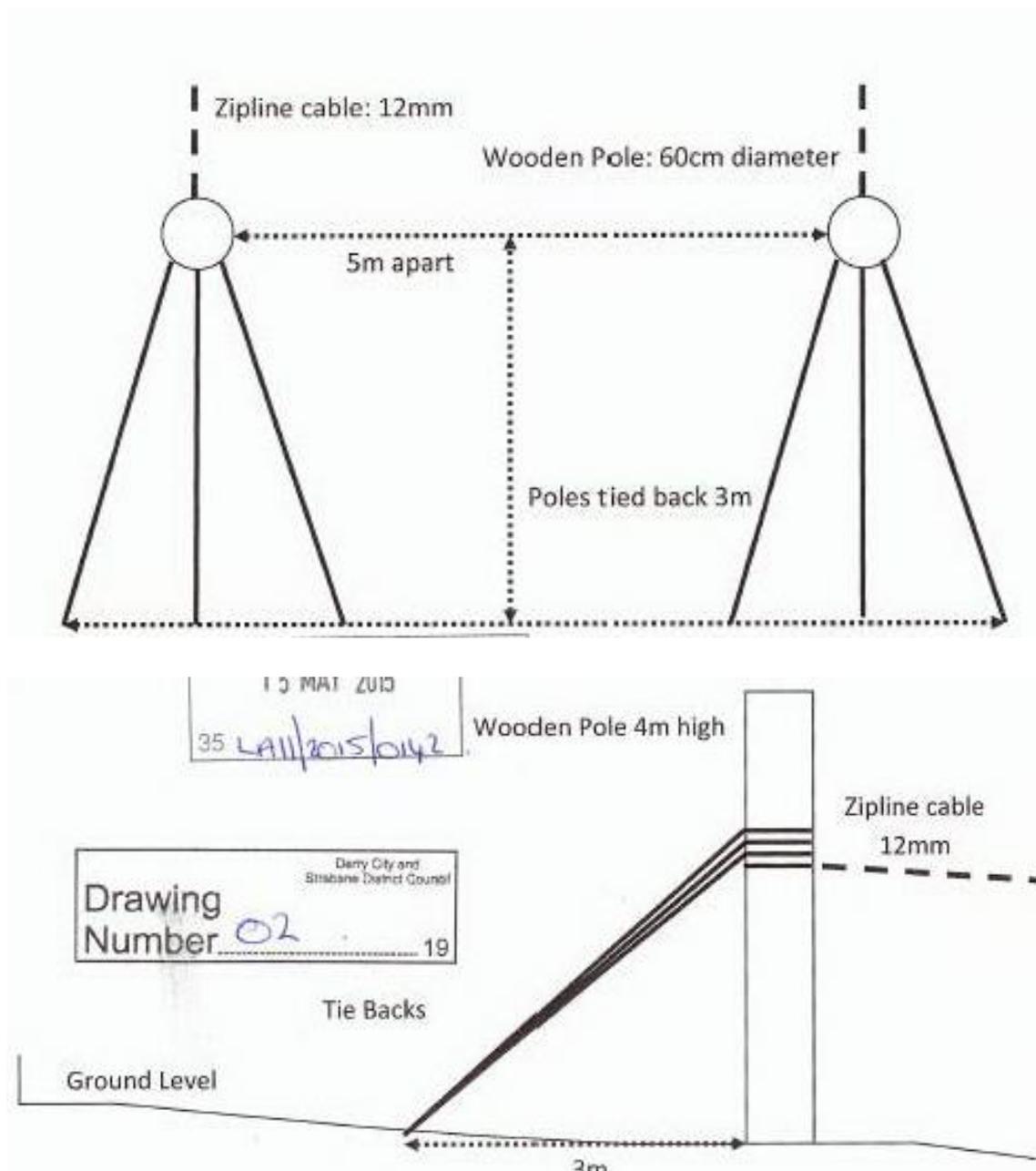
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## **1. Description of Proposed Development**

The proposal is for the change of use of an area of existing farmland to outdoor recreational use to provide 2no. dual zip lines. The zip lines will span up to 350 metres across the River Faughan and will be suspended at heights varying from 2.4 metres above land to 19.5 metres above the river at its lowest point. Each zip line will be attached to 4 metre high wooden poles either side of the river, situated approximately 30 metres from the river bank.

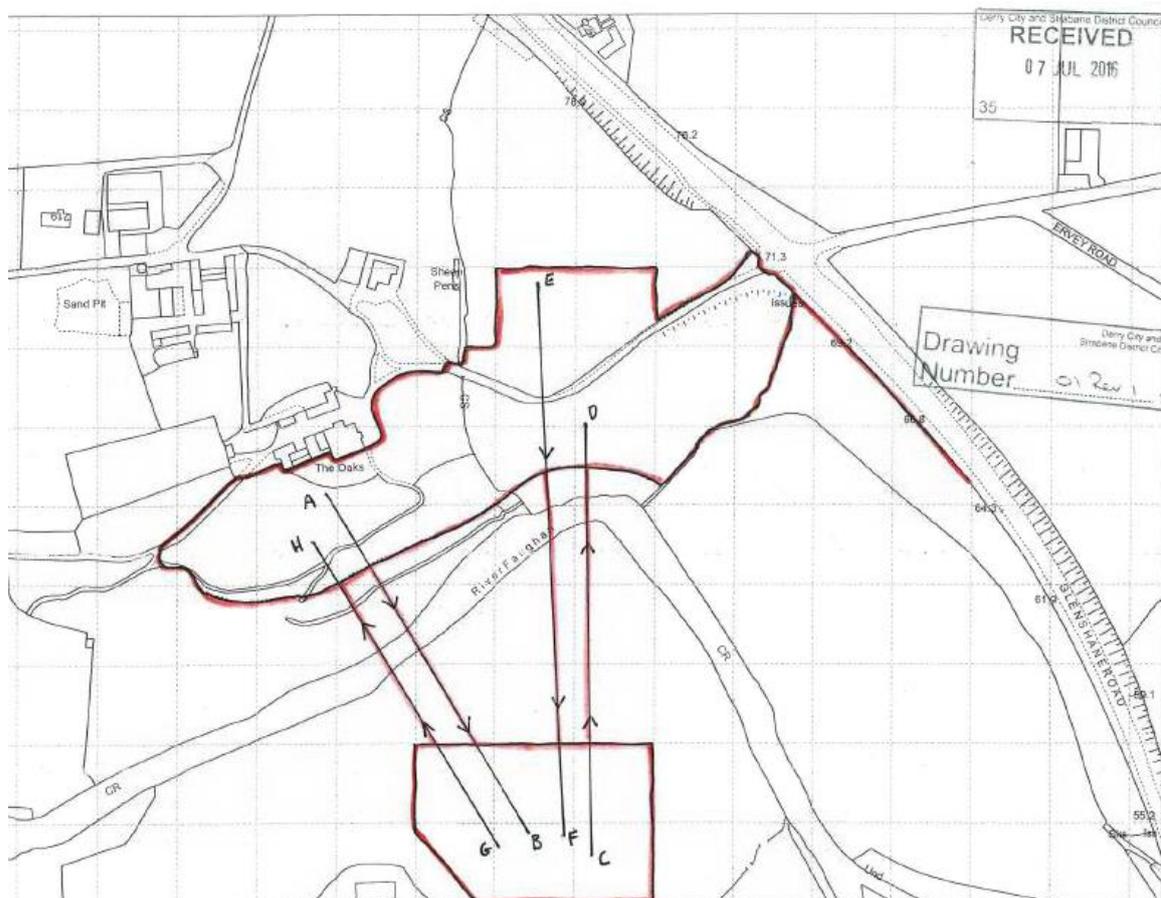
2. **EIA Determination-** The development falls within Category 12 (a) of Schedule 2 of the Planning (Environment Impact Assessment) Regulations (NI) 2015. The Council is obliged to under Regulation 10 (1) of these regulations to make a determination as to whether the application is for EIA development.

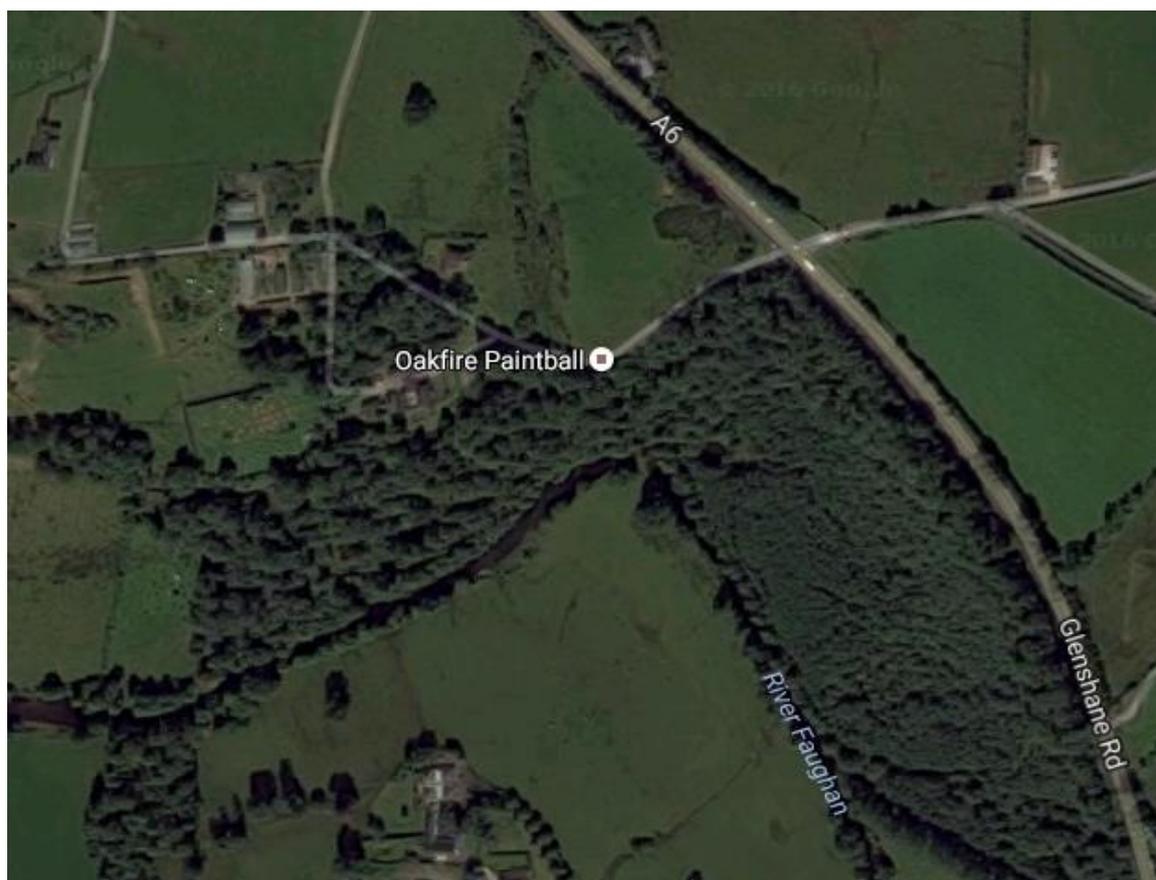
The Council has determined as such that the planning application does not require to be accompanied by an Environmental Statement.



### 3. Site and Surrounding Area

The application site is a 4.87 hectare area of land within a wooded area known as the Oaks. The site features two land uses; an outdoor paintballing business and an area of agricultural land. The site expands over the River Faughan including land on both sides of the river, however the operational development associated with this application is restricted to the anchor sites and the line itself which will be suspended above the river. The site is located adjacent to and transcends the River Faughan ASSI/SAC. The nearest operational element of this proposal is located 20 metres from a listed Building known as 'The Oaks'. The site accesses onto the Main A6 Glenshane Road which is a Protected Route.





#### 4. Site Constraints

River Faughan and Tributaries ASSI/SAC  
 Faughan Valley Area of High Scenic Value  
 A6 Protected Route Network  
 Oaks Listed Building (HB01/02/003)  
 Oaks Historic Park, Garden and Demesne

#### 5. Neighbour Notification Report

Neighbour Address	Date Neighbour Notified
225 Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15
227A Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15

227B Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15
227C Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15
227D Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15
227E Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15
227F Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15
227 Glenshane Road Strathall Londonderry Londonderry BT47 3EW	6/1/15

## 6. Relevant Site History

A/2007/0957/F Change of land use from farming to paintballing, change of use from basement flat to office. Granted 30.10.2012

## 7. Policy Framework

Derry Area Plan 2011

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 2 : Natural Heritage

Planning Policy Statement 3 : Access, Movement and Parking

Planning Policy Statement 6 : Planning, Archaeology & the Built Heritage

Planning Policy Statement 8 : Open Space, Sport and Outdoor Recreation

Planning Policy Statement 21 : Sustainable Development in the Countryside

## **8. Consultee Responses**

Both Natural Environment Division (NED) and Shared Environmental Services (SES) consider that the proposal will not have an adverse effect on otters or the conservation objectives of the River Faughan and Tributaries ASSI/SAC subject to mitigation conditions regarding a construction buffer, pre-construction check for the presence of otters and restrictions on the use of artificial light as outlined in paragraph 12 below.

Following submission of a noise impact assessment report and supporting letters from nearby residential properties, Environmental Health Service no longer have concerns with noise associated with the development.

Transport NI have no objections to the development subject to conditions regarding the access and parking outlined in paragraph 12 below.

Loughs Agency have no objections to development

## **9. Representations Consideration**

A letter of objection was received from the Secretary of the River Faughan Anglers expressing concern that an Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) had not been posted on the planning portal and they felt it was unclear how Planning sought to address the specific environmental issues highlighted by SES and NED. The objector made reference to inadequacies in how the planning approval for the paintballing business was dealt with and their right to comment further upon publication of information currently not available. I would advise that both the EIA Determination Report and HRA were made publicly available on the planning portal on the 27<sup>th</sup> July 2016 and all relevant environmental considerations highlighted by SES and NED are considered in these reports and have also been considered in paragraph 10 below.

The objector also stated that it was unclear how the proposed activities will utilise the River Faughan SAC and how this was considered as part of the environmental considerations. It refers to a recent weekend recreational event held at the Oaks which involved participants entering and utilising the river causing disruption to anglers and the objector queried the impact of such activities to protected wildlife if they were to become a regular event. The event cited by the objector is not the subject of the current application or its proposed activities. Activities specifically related to this development will be suspended above the river via zip line at a height of at least 19.5 metres, they do not involve participants entering the river and any land based activity will be take place at a distance of 30 metres from the river bank. It is considered that these activities will not cause disruption to protected wildlife as considered in paragraph 10 below.

The objector goes on to highlight that this stretch of river is utilised for fly fishing for salmon and the proposed zip line may conflict with angling activities, considering salmon anglers back cast with lines in excess of 20 metres and this could pose health and safety issues in the vicinity of the zip line. It should be noted out that the River Faughan covers a length of approximately 66 kilometres and in comparison, this development affects a very small stretch of approximately 200 metres.

#### **10. Planning Assessment and Other Material Considerations**

Section 6 (4) of The Planning Act (Northern Ireland) 2011 requires the Council to make planning decisions in accordance with the local development plan, unless material considerations indicate otherwise.

This proposal has been assessed against the policy framework listed in paragraph 7 and all other material considerations including the representations received.

### **Derry Area Plan 2011**

The site is located outside the development limits of Derry as defined in the development limits of Derry Area Plan 2011. The site is identified as being within an Area of High Scenic Value (AoHSV) and therefore Policy ENV 1 of the DAP 2011 is a material consideration in this application.

Policy ENV 1- States that proposals for development which would adversely affect or change either the quality or character of the landscape within the AoHSV will not normally be permitted.

The poles on the northern side of the river will be located within existing wooded areas and will be largely screened from public view. The poles on the southern side of the river will be located in open country fields and given their position within a river valley the views from the wider public will be limited. Approval of this proposal will have no significant adverse impact on the character and quality of the AoHSV.

### **'Strategic Planning Policy Statement for Northern Ireland' - Planning for Sustainable Development (SPPS)**

The SPPS supersedes PPS 1 General Principles, however the guiding principle of what PPS 1 aimed to achieve in terms of public interest is supported through the SPPS; in particular, paragraph 2.3 states that *"the planning system operates in the public interest of local communities.... It does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases... 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.* Paragraph 5.72 of the SPPS further emphasises this in that *"sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases the planning authority has power to refuse planning permission"*.

## Amenity

The impact of the proposal on the surrounding land uses and buildings has been considered. The operational element of the proposal is for the erection of the wooden poles at 8 various locations. These physical elements will not have any adverse impact on any adjoining land uses or the amenity of any nearby residential properties.

The applicant has advised that minimal noise will be generated from the activities and that this would be during day light hours, dispersed times throughout the week and sometimes not at all depending on weather conditions, demand and time of year. Environmental Health initially raised concerns in relation to the potential noise impact of the proposal upon unconnected residential properties in close proximity to the west of the site as noise may be audible at these properties from time to time. However, following submission of a letter for the agent outlining a response to the original EHD comments and supporting letters from the occupiers of 222 and 220 Ardmore Road citing no objections on the grounds of noise, Environmental Health no longer have these concerns. A decision is currently pending on a planning application LA11/2015/0123/O for a dwelling 125m south west of 222 Ardmore Road, however this property would be further away from the development and the applicant for this dwelling is also the occupier of 222 Ardmore Road who cited no objection to the development. In consideration of the above, the development would not generate an unacceptable level of disturbance upon the residential amenity of nearby properties or upon surrounding livestock and wildlife in compliance with paragraph 2.3 of the SPPS. An objection letter expressed concerns to the health and safety of users of the overhead line given that this stretch of river is used by anglers, however it is not considered that the activities pose a significant risk.

**Planning Policy Statement 21: Sustainable Development in the Countryside and Planning Policy Statement 8: Open Space, Sport and Recreation**

There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

The site is located within a wooded area known as 'The Oaks' which has an existing paintballing business. The proposed zip lines will be associated with and considered an operational element of this business. The nature, scale, extent, frequency and timing of the proposed zip line activities are compatible with the adjacent paintballing business use and there will be no permanent loss of versatile agricultural land or unacceptable impacts on nearby agricultural activities. The proposal complies with Policy OS 3 of PPS 8 and Policy CTY 1 of PPS 21 accordingly.

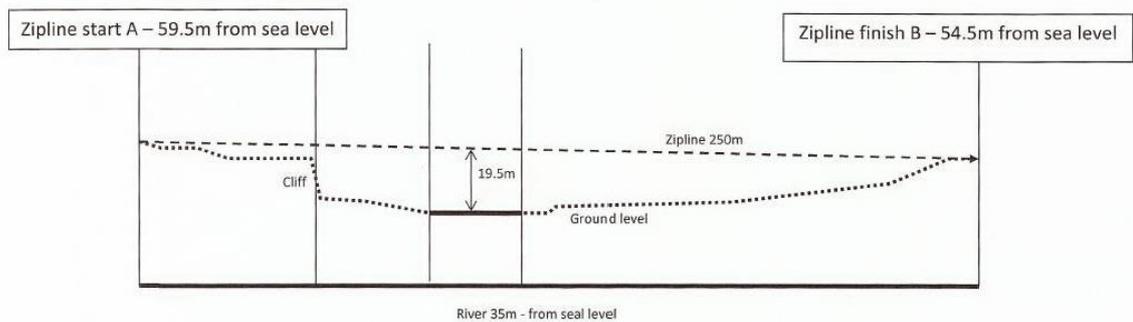
**Planning Policy Statement 3: Access, Movement & Parking and Planning Policy Statement 8: Open Space, Sport and Recreation**

The applicant advises at peak times the existing paintballing business attracts a maximum of 12 staff and customer vehicle visits per day. As the proposed zip lines will be associated with the existing business and will not be used at the same time, the proposal will generate the same amount, type and frequency of traffic as the existing business. The proposal would not intensify the use of the existing access onto the A6 protected route and therefore consider it to be an exception to Protected Routes Policy in accordance with Policy AMP 3 of PPS 3. The development will involve improved sight lines of 2.4 x 215 metres at the existing access and the paintball business has existing parking on site which will serve the zip line facility. Transport NI are content with these access and parking arrangements and it is considered that the proposal provides adequate parking and servicing arrangements and will not prejudice road safety or traffic flow in compliance with Policy AMP 2 and AMP 7 of PPS 3.

**Planning Policy Statement 2: Natural Heritage and Planning Policy Statement 8: Open Space, Sport and Recreation**

Although the application site is quite large, the scale and nature of the works proposed are by comparison very minor with operational development comprising 4 metre wooden poles with a zip line suspended in between. This development can be readily absorbed into the landscape without adverse impact on the visual amenity or character of the Faughan Valley Area of High Scenic Value and surrounding countryside in compliance Policy OS 3 of PPS 8.

Each zip line will be attached to 4 metre high wooden poles sited 30 metres either side of the river bank and the zip lines will span up to 350 metres across the river suspended 19.5 metres above the river at its lowest point. Both NED and SES were consulted with regards to the impact of the proposal on the River Faughan and Tributaries ASSI/SAC. SES identified that the proposal had the potential to impact on three key features of the ASSI/SAC i.e. salmon, oak trees and otters. Given the scale and nature of the proposal, it is unlikely that the development would detrimentally effect salmon given that the works are 30 metres from the river and are of a minor nature. The positioning of the poles will not require any trees to be felled or altered and the applicant advises that he currently maintains a 10 metre buffer between existing activities and the river. An Otter survey was submitted to determine the impact of the proposal upon Otters using the adjacent river corridor, however this survey concluded that there were no holts or couches within 30 metres of the development and the proposal will not have an impact upon otter population. In consideration of the above, if the mitigation conditions proposed by SES are applied, I am satisfied that proposal will not have a significant effect on otters or the conservation objectives of the River Faughan and Tributaries ASSI/SAC in accordance with Policy NH 1 and NH 5 of PPS 2 and Policy OS 3 of PPS 8



**Planning Policy Statement 6: Planning, Archaeology & the Built Heritage and Planning Policy Statement 8: Open Space, Sport and Recreation**

At its nearest point, the site is located 20 metres from a listed Building known as the Oaks. The walled garden associated with the house is disused and the main interest on this site is the tree planting along the river. The development will not require any trees to be felled or altered. Given the scale and nature of the development and its separation distance from the Oaks building, I am satisfied that the proposal will not have an adverse impact upon the historic building or garden in accordance with Policy OS 3 of PPS 8 and PPS 6 and NED have not raised any concerns.

**11. Conclusion and Recommendation**

Having considered all material considerations, including the development plan, relevant planning policies, planning history of the site, consultations and representations approval is recommended.

**12. 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 visibility splays of 2.4 metres by 215 metres and the required forward sight distance of 215 metres at the junction of the proposed access with the public road, shall be provided in accordance with the Drawing No. 04 bearing the date stamp 07 July 2016, prior to the commencement of the development hereby approved. 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.

3. A buffer of at least 20 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil and the river edge of the River Faughan and Tributaries SAC.

Reason: To avoid any adverse effects on otters and Atlantic Salmon, contrary to the conservation objectives of the River Faughan and Tributaries SAC

5. Immediately prior to the commencement of any works hereby approved, the site shall be re-examined by a suitably experienced surveyor for any diagnostic signs relating to the presence of otters. If a new holt or couch is found within 30m of the proposed zip lines, all work must cease immediately and further advice must be sought from the NIEA Wildlife Officer.

Reason: To avoid any adverse effects on otters, contrary to the conservation objectives of the River Faughan and Tributaries SAC

6. Construction works and operational activities shall only take place within daylight hours. Artificial lighting, of any kind, must not be utilised along the zipline route.

Reason: To avoid any adverse effects on otters, contrary to the conservation objectives of the River Faughan and Tributaries SAC