

Derry City and Strabane District Council Planning Committee Report

COMMITTEE DATE: 25th March 2019

APPLICATION No: A/2008/0236/O

APPLICATION TYPE: Outline Planning application

PROPOSAL: Site for residential development

LOCATION: Elagh Road / Bunrana Road Londonderry. North / North East of the Cosh Bar and Grill. BT48 8LB.

APPLICANT: Mrs R Morrow

AGENT: O'Connor Burke Architecture Ltd

ADVERTISEMENT: 04.04.2008 **READVERTISEMENT:** 18.02.2015 **READVERTISEMENT** 16.11.2017

STATUTORY EXPIRY: 16.12.2017

RECOMMENDATION: Refusal

REASON FOR PRESENTATION TO COMMITTEE: Housing development over 5 units.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk

Details of Site Visit on 13th March 2019

Members voted to defer the application at the Planning Committee Meeting on 6th February 2019 in order for a site visit to be carried out.

The site visit took place on 13th March at 9.30am.

In attendance:

Councillor W Robinson

Councillor D Kelly

Alderman H McClintock

Councillor P Logue

Councillor H Hastings

Alderman A Bresland

S McCracken – Planning Officer

S Barrett – Planning Officer

J Spottiswood – Planning Officer

J Duffy – Planning Officer

Officers showed Members the Concept Layout Plan of the proposed housing. Discussion at the site visit related to the land required for Buncrana Road widening scheme; the existing access at Elagh Road onto Buncrana Road; the issues raised by DFI regarding access to the site and Buncrana Road; and DFI Roads request for the access to be taken through Elagh Business Park and the implications of this. The bus then drove Members through the existing industrial park to show where the access as suggested by DFI would be located and how it related to the site. The bus departed for a further site visit at 10.15am.

1. Description of Proposed Development

The application is an outline application for a housing development. The initial concept plan was for approx. 46 dwellings. The latest amended concept plan received in September 2018 shows potential land required for the A2 Buncrana Road widening scheme which has reduced the numbers initially from 46 to 26 with an annotation on the drawing that further lands could be developed on completion of the dualling scheme which would offer additional dwellings in future frontage onto the A2.

For the purposes of this application, an assessment has been undertaken on the latest concept plans.

During the processing of the application the following reports were submitted; Junction Assessment (March 2013); Newt Survey (June 2009); Drainage Assessment (October 2018); Contaminated Land Assessment (November 2018); Preliminary Ecological Appraisal (December 2018); Acoustic Report (January 2019).

Members should note that this application was previously presented to the former Derry City Council Committee on 3rd February 2015 with a recommendation to refuse permission. Transport NI (now known as DFI Roads) recommended refusal as it was considered the development was contrary to AMP 3 and 4 of PPS 3. The application was deferred for an office meeting which took place on 13th February 2015. Since then, officers have been liaising with the agent and DFI to try to reach a resolution to satisfy DFI Roads.

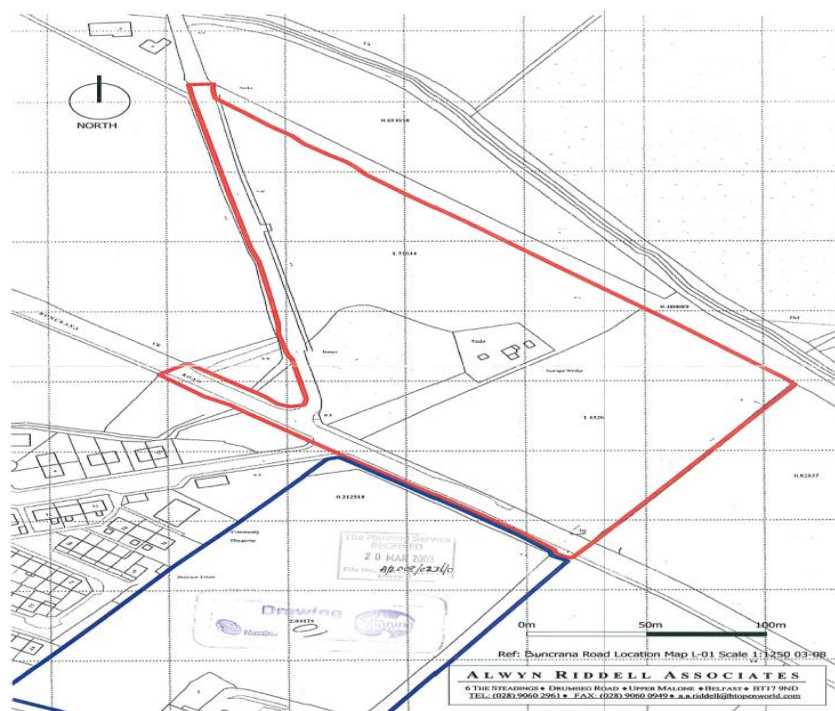
2. EIA Determination

An EIA determination was carried out in April 2008 as the site is greater than 0.5ha. A review of the EIA determination carried out was then completed on 24th November 2017 in which it was determined that no Environmental Statement was required as there would be no significant environmental impacts.

3. Habitats Regulation Assessment

Shared Environmental Services our environmental advisors have assessed the potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended). The proposed development site is hydrologically connected to Lough Swilly SAC/SPA, as Elagh River flows south of the site. SES completed a stage 2 Appropriate Assessment for the site and advise that provided mitigation is conditioned in any planning approval, the proposal would not have an adverse effect on site integrity of any European Site.

4. Site and Surrounding Area



Site Location Plan



Aerial Photograph of Site

The site is within the development limits of Derry as indicated in the Derry Area Plan 2011 but is not zoned for any particular land use. The site is a relatively flat agricultural field located on the eastern side of Elagh Road. Since 2013 the field has been planted out with Willow trees which covers most of the site and the trees have now matured to approx. 2-3 metres in height. The site is close to the junction of Elagh Road with the Buncrana Road, which is south of the site. Elagh Road is west of the site and beyond this further west is an area of light industry, known as Elagh Business Park. To the north is the former Lough Swilly railway line and beyond this an existing stream. To the east of the site is agricultural fields which are zoned H1A housing land in Derry Area Plan 2011. A disused pumping station is located on the northwest corner of the site. The Cosh Bar and Benview Estate are located south of the site on the opposite side of Buncrana Road.

5. Site Constraints

A disused treatment plant is located in north western corner of the site.

A2 Buncrana Road

6. Neighbour Notification Report

All relevant neighbours have been notified on the application.

Neighbour Address	Date Notified	Neighbour
66 Buncrana Road,Coshquin,Londonderry,BT48 8LD	01/04/2008	
6 Elagh Road,Coshquin,Londonderry,BT48 8LU	01/04/2008	
8 Elagh Road,Coshquin,Londonderry,BT48 8LU	01/04/2008	

Neighbour Address	Date Notified	Neighbour
66 Buncrana Road,Coshquin,Londonderry,BT48 8LD	18/02/2015	
6 Elagh Road,Coshquin,Londonderry,BT48 8LU	18/02/2015	
8 Elagh Road,Coshquin,Londonderry,BT48 8LU	18/02/2015	

Neighbour Address	Date Notified	Neighbour
66 Buncrana Road,Coshquin,Londonderry,BT48 8LD	09/11/2017	
6 Elagh Road,Coshquin,Londonderry,BT48 8LU	09/11/2017	
8 Elagh Road,Coshquin,Londonderry,BT48 8LU	09/11/2017	

Neighbour Address	Date Notified	Neighbour
66 Buncrana Road,Coshquin,Londonderry,BT48 8LD	18/10/2018	
6 Elagh Road,Coshquin,Londonderry,BT48 8LU	18/10/2018	
8 Elagh Road,Coshquin,Londonderry,BT48 8LU	18/10/2018	

6. Relevant Site History

A/2010/0400/O - Development of 3no. Detached houses. Northwest of The Three Flowers public house between Buncrana Road and Elagh Road, Londonderry. Permission granted 02.03.2015, expired 01.03.2018.

7. Policy Framework

RDS 2035 - SFG7 Strengthen the role of Londonderry as the Principal City of the North West; meeting the housing needs of the area.

Policy RG8: Manage housing growth to achieve sustainable patterns of residential development.

Derry Area Plan - The site is located on land within the development limits but is not zoned for any particular use. Therefore a range of different uses could be considered acceptable in accordance with prevailing planning policies.

Policy BE1 Urban Design requires development proposals to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

Policy H1 Housing Design and Layout – requires a high standard of Design and Layout in all new housing developments.

Policy ENV 7 Retention of Trees and Hedges and Landscape Requirements – requires development proposals to take account of existing trees and hedges which in the interests of visual amenity or wildlife habitat should be retained. Proposals are expected to provide appropriate landscaping as an integral part of the design.

Policy ENV 8 The Water Environment – advises that development proposals that introduce or increase water pollution to an unacceptable extent or adversely alter the water levels in any body of water, watercourse or groundwater will not be permitted.

Policy ENV 9 Development adjacent to Rivers and Open Water Bodies – advises development will only be permitted adjacent to major rivers and open water bodies where it can be demonstrated it will have no adverse impact on landscape character or setting; will not involve loss of significant views; will not prejudice existing or potential for public access; and is in conformity with other plan policies.

Strategic Planning Policy Statement for NI – The SPPS is a statement of the Department’s policy on important planning matters that should be addressed across NI. The provisions of the SPPS apply to the whole of NI and are material to all decisions on applications. Sustainable development is at the heart of the SPPS, which includes key principles for development and also strategic policies on housing, natural heritage etc.

PPS 2 Natural Heritage – sets out the planning policies for the conservation, protection and enhancement of our natural heritage.

PPS 3 Development Control: Roads Considerations – sets out the planning policies for vehicular and pedestrian access, transport assessment, and the protection of transport routes and parking.

PPS 7 Quality Residential Environments - The Council seeks to achieve residential developments that promote quality and sustainability in their design and layout, are in harmony with their townscape or landscape setting and which will ultimately make a positive contribution to the character and appearance of the country's settlements. Policy QD 1 of this PPS lists the criteria to be met by housing schemes and requires the submission of a Design Concept Statement demonstrating how the scheme will meet these criteria.

Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation - Sets out the policies for the protection of open space, the provision of new areas of open space in association with residential development.

PPS 12 Housing in Settlements – The policy guidance in this statement applies to all residential development proposals within cities, towns, villages and small settlements in Northern Ireland, including the push for 'sustainable development' in the choice of housing land.

PPS 15 Planning and Flood Risk – sets out the Planning policies to minimise and manage flood risk.

Creating Places/Living Places – this is guidance to aid designers in creating quality residential developments

8. Consultee Responses

DFI Rivers – required further information to satisfy policy FLD 2 in terms of maintenance strips to protect the three watercourses that bound the site which are located on the western boundary, the boundary with Bunrana Road and the boundary with Elagh Road. A conceptual drainage Plan received 21 January 2019 identifies the maintenance strips along the three watercourses, and DFI Rivers consulted on 24.1.19 with regards to this matter. Officers consider that this issue has now been addressed. DFI Rivers has advised the maintenance strips should be level, marked up on all layout drawings and protected from impediments including tree planting, land raising or future unapproved development by way of a planning condition. The maintenance strip is not currently shown on the concept plan but is accurately shown on the drainage plan submitted. This is considered acceptable.

In considering FLD 3 a Drainage Assessment was submitted in October 2018. DFI Rivers were consulted and advise that provided the drainage works described in the assessment and noted on the drainage layout plan, C-01B contained within the report are implemented the proposed development should

not increase the risk of flooding to the development from elsewhere. A copy of the Schedule 6 Consent was received from the agent on 21 January 2019, and DFI Rivers consulted who advise they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. Officers therefore consider that the proposal complies with FLD 3.

In considering FLD 4, having now considered the drainage plan submitted, culverting will be required over a short length of water course to provide the proposed access to the site at Elagh Road. See consideration under PPS 15 later in this report.

Water Management Unit – has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions. WMU have a caveat that their comments are on the basis that foul sewage infrastructure from the development connects to NIW foul sewer which terminates at Culmore waste Water Treatment Works. WMU advise that if it is not possible to connect to NIW foul sewer, WMU would require further clarification with regards to this matter. See NIW comments below.

Regulation Unit Land and Groundwater Team – A Contaminated Land Assessment: Phase 1 Preliminary Risk Assessment (PRA and Phase 2 Generic Quantitative Risk Assessment (GQRA) has been provided in support of the application. Regulation Unit has considered the report and advise that no unacceptable risks from contamination to environmental receptors have been identified for the development. On this basis Regulation Unit has no objection to the development subject to conditions and informatives.

Natural Environment Division –NED has considered the Preliminary Ecological Appraisal (PEA) received 11 December 2018. NED raised concerns as the PEA does not appear to have considered otters and advises that clarification is sought from the ecologist on this matter. A letter received from the ecologist, 'Nelson Ecology Ltd' on 6th February 2019 confirms that no area of the site or within 50m of the site boundaries was suitable habitat for Otters; and as described in the PEA report the small shucks were overgrown and no areas of suitable otter habitat were associated within the site. Officers are content that confirmation from the ecologist demonstrates there will be no impact on otters.

NED also welcome the retention of all trees, hedgerows and planting along the north east boundary as per drawing 12 rev 2 date stamped 11 September 2018 by Derry, City and Strabane District Council. NED recommend that any additional planting is of native species. NED also notes that all trees on site have been classified as negligible bat roosting potential however bats may still use the site and the adjacent watercourse for foraging and commuting and therefore advise that a bat friendly lighting

plan is submitted. Officers are content that should the principle of development be established then a condition could be imposed requiring a bat friendly lighting plan at Reserved Matters/Full application stage.

Loughs Agency – No objection subject to conditions relating to storm water discharge.

Environmental Health Service;

Contamination

EHS initially advised that the ground conditions of the site on land close to an old railway line may have potential to impact on the health of site end-users. Ground contaminations have previously been undertaken for different developments in the adjacent Elagh Business Park. These indicated that potentially gassing natural alluvial deposits were likely to be present beneath parts of the site and that areas of adjacent infilled land were a potential source of contamination. As a result of this various contaminants may be present which could adversely impact on the health of future sites users; the health of construction workers during the development; environmental receptors including surface and groundwater and on site buildings.

Following the concerns raised with regards to the above, a Contaminated Land Risk Assessment was submitted in November 2018 and EHD has reviewed the report in detail and based on the information supplied EHD agree with the findings in the report. EHD therefore has no objection subject to condition that if unexpected contamination is found on site during construction works should stop and site investigation carried out.

Noise

Due to the proximity of the proposed development to Buncrana Road and also considering the road is to be dualled which will further increase traffic noise, EHD advise that a noise assessment for the site is required to assess the impact of traffic noise on the proposed development, on dwellings close to the carriageway and any necessary mitigation to protect amenity from traffic noise. An assessment on noise from operations at the adjacent Elagh Business Park and noise from night-time entertainment, from the Cosh Bar directly across the Buncrana Road is also required to ensure that the amenity of future occupants will not be significantly impacted by existing noise sources in the vicinity of the proposed development.

An Acoustic Report was received on 23rd January 2019 and Environmental Health re-consulted. EHS had no objections to the application.

Shared Environmental Services - The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended). The site is hydrologically connected to Lough Swilly SAC/SPA as there is a watercourse beyond the northern boundary of the site which flows to Skeoge River. Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European Site. In correspondence date 17th October 2018 SES confirmed that the HRA is compliant with CJEU C-323/17.

NI Water - Public water supply is located within 20m of the proposal. NIW advise however that there is no foul sewer and no surface water sewers within 20m of the proposed development. NI advise that although it has been determined what infrastructure is within 20m of the proposal, a Predevelopment Enquiry is required to obtain details of availability of existing water and sewerage infrastructure and how the proposal would be served. There is however available capacity within the Waste Water Treatment facilities at Culmore WwTW. The applicant may wish to requisition NI Water for a foul and surface water (storm outfall) sewer to the proposed development site.

DFI Roads – has recommended refusal of the application and advise the proposal would prejudice the delivery of the A2 Buncrana Road Strategic Route Improvement Scheme and is therefore contrary to PPS 3 AMP 4; and the proposal would prejudice the safety and convenience of road users as access arrangements onto Elagh Road are not acceptable as it has not been demonstrated that the access complies with DCAN 15 for the mitigation required to the Elagh Road/Buncrana Road junction. See detailed consideration set out in Assessment of Policy under PPS 3.

9. Representations

No representations have been received on the application.

10. Planning Assessment, including 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 provisions of the Derry Area Plan 2011, as well as other material considerations including the Regional Development Strategy; the Strategic Planning Policy Statement for Northern Ireland; PPS 15 Planning and Flood Risk; PPS 8 Open Space and Outdoor Recreation; PPS 7 Quality Residential Environments; PPS 3 Access Movement and Parking, PPS 2 Natural Heritage and supplementary guidance in 'Creating Places', as well as consultation responses received.

The Strategic Planning Policy Statement for NI (SPPS)

The SPPS supports and strengthens PPS 7 in that it requires submission of a design concept to be sought and agreed with the developer. A number of concept plans have been submitted throughout the application to demonstrate how the site could be developed, taking into account the access issues (see detailed consideration of the access under PPS 3 Assessment).

The latest concept plan received September 2018 takes account of the land required for the uptake of the A2 Buncrana Road widening scheme. An assessment of the concept layout is set out in PPS 7 later in this report. All new housing should demonstrate a high quality of design, layout including road infrastructure considerations and landscaping. Good design contributes to the creation of places to live that are safe and attractive and is also a key element in achieving sustainable development.

The SPPS emphasises the importance of 'Place Making' – which includes the compatibility of a development with its immediate and wider context which are important considerations, and the importance of managing housing growth in a sustainable way.

Derry Area Plan 2011

The application site is located on un-zoned land as defined in the Derry Area Plan, the principle of housing could therefore be an acceptable use on this site.

In considering the Area Plan Policies, Policy H1 Housing design and layout states that development proposals should have regard to the following; scale and density to respect the location and characteristics of the surrounding development; layout to respect residential amenity; design; landscaping, boundary treatments, provision of satisfactory access, roads layout, pedestrian/cycle

linkages, sewerage and drainage. A detailed assessment of the housing layout is set out in detail in PPS 7 section later in this report.

Policy ENV 7 requires proposals to take account of existing trees and hedges in the interests of visual amenity of wildlife habitat. The concept plans submitted with the application indicate retention of trees and hedgerows and planting along the north east boundary of the site. As this is an outline application the details of additional planting would be required at Reserved Matters/Full application stage, should the principle of development be accepted on the site.

With regards to policy ENV 8 the development is unlikely to introduce or increase water pollution to an unacceptable extent or adversely alter the water levels. It is considered that with regards to policy ENV 9 that the development will have no adverse impact on landscape character or setting of Skeoge/Elagh stream. The proposal will also not involve a loss of significant views of and from the waterbody or prejudice the wider public access.

Planning Policy Statement 15 Planning and Flood Risk

DFI Rivers advise that the site does not lie within the 1 in 100 year floodplain. There are however three watercourses that bound the site. Under policy FLD 2 a maintenance strip of at least 5m is required to be provided to facilitate maintenance of the watercourses adjacent to the site. The working strips are required to be shown on a drawing and within the Drainage Assessment. These maintenance strips are required to be protected from impediments (including tree planting), land raising or future unapproved development by way of condition. A recent drawing from the agent received 21 January 2019 indicates the maintenance strips marked on a drawing. DFI Rivers were consulted and advise the maintenance strips should be marked up on all layout drawings. Given the drainage plan submitted, officers are satisfied that this issue has been addressed.

Under FLD 3 the developer is required to complete a drainage assessment and provide evidence that proposed storm water run-off from the site can be safely discharged. A Drainage Assessment was received in October 2018 and DFI Rivers previously advised that provided the drainage works described in the report and as noted on drainage drawing are implemented and schedule 6 Consent approval is obtained, the proposed development should not increase the risk of flooding to the development or elsewhere. A copy of the Schedule 6 Consent to discharge to a watercourse, was received on 21 January 2019, and DFI Rivers subsequently consulted. DFI Rivers advised in response dated 11th March 2019 that they have no reason to object to the proposed development from a drainage or flood risk perspective. The proposal complies with FLD 3.

In considering policy FLD 4 a Drainage Plan was submitted on 21 January 2019 and from this it is clear that the proposal will involve culverting of a watercourse. FLD 4 only allows for the short canalisation of a watercourse in exceptional circumstances, i.e. to provide an access to roads. In correspondence received from the consultant on 5th February it was confirmed that it is proposed to culvert a short length of the watercourse on the western boundary adjacent to Elagh Road. This is to provide access to the site and would be done through a separate Schedule 6 application to DFI Rivers. Officers consider that the proposal therefore complies with FLD 4.

Planning Policy Statement 3 Access Movement and Parking

The key issue with this application is the principle of accessing the site onto Buncrana Road. As stated earlier in this report, this application was presented formerly to Derry City Council with a recommendation to refuse permission as the proposal was contrary to Policy H1 of DAP in that it would prejudice the development of H1A zoned lands by virtue of the access and layout arrangements; contrary to PPS 3 AMP 2 in that the standard of the existing road network is not adequate to accommodate the volume of traffic to the site; and, contrary to AMP 4 in that the development if approved would prejudice the delivery of the Buncrana Road dualling scheme.

Since the application was deferred by the former Derry City Council, officers have tried to come to a resolution with the developer and DFI Roads to progress the application. Options that have been considered included; a left in left out option from the site onto Buncrana Road, however DFI Roads advised this could not be considered given the Buncrana Road emerging design stage 2 proposal. The possibility of a shared access to link into the H1A zoned housing lands has also been considered, however this could not be progressed as there is no current application for the H1A zoned lands. No consideration could be given to this until an application would come forward for H1A. DFI Roads offered the developer the option of serving the development through Elagh Business Park however Planning officers consider that accessing a housing development through an industrial estate is an inappropriate form of development; it would not represent good quality planning or place making and advised the developer that this approach is unacceptable. Furthermore officers consider that this approach to access a housing development through an industrial zoning is not compatible to the immediate and wider context and therefore is not a sustainable form of development and would therefore be contrary to the SPPS.

The agent provided a number of concept plans throughout the processing of the application to try to resolve the road issues. The latest concept plan submitted in September 2018 takes account the notional corridor 'Emerging Design' stage 2 document. The exact extent of the land required for the Buncrana Road widening scheme is not known. This concept plan also takes into account the land

DFI Roads Consideration

As an outline application to establish the principle of access to the adopted network, this application affects delivery of the A2 Buncrana Road SRI scheme and intensifies the Buncrana Road/Elagh Road junction. The Departments' primary concern is the public interest in protecting the A2 Buncrana Road scheme and both the safety and convenience of road users.

In order to remove DFI's objections and provide sufficient protection to the A2 Buncrana Road scheme, the Department would require both of the following assurances:

- 1. The Department would require an assurance that this development's access onto the Buncrana Road via Elagh Road will be temporary and, when the A2 Buncrana Road scheme comes forward, this development's traffic will be permanently diverted along the realigned Elagh Road. This assurance in DFI Roads opinion would require a planning agreement which will then be statutory charged on the application lands. This gives a legally defined assurance to the Department and legally notifies future homebuyers during their conveyancing process that Elagh Road will be closed up.*
- 2. The Applicant must demonstrate that all the land required to deliver and upgrade the Elagh Road/Buncrana Road junction for this temporary access is within the red line for this application. This will require the Applicant to revisit the junction survey with his consultant and update it for the adjusted development year to establish Elagh Road's design year traffic. The consequent design standard required to upgrade the junction and to ensure that the land required is within the Applicant's control must then be demonstrated within the red line for this application.*

As Buncrana Road is a Key Transport Corridor and Trunk Road, when the design standard is agreed, this development's impact requires that the junction be improved in accordance with the 'Design Manual for Roads and Bridges'. The Department will require submission of a topographical survey, dimensioned, detailed design and cross sections. All design should be in accordance with the DMRB and will require safety audit. Any relaxations or departures from standard and technical approvals will require agreement by the Department.

At the 6th June 2018 meeting with the Applicant, Agent and Council, DFI Roads advised that the Applicant could bring Item 1 forward now and construct the permanent access to Buncrana Road

through Elagh Business Park. DFI Roads are aware that the land required to provide an access road via Elagh Business Park is not within red line for this application and not within the Applicant's control. Furthermore Council advised at that meeting that, for planning, a permanent residential access via Elagh Business Park is not acceptable for this residential planning application.

During the processing of the application the agent queried two other applications on Buncrana Road which received approval and requested that this application is treated consistently with others approved. DFI Roads have provided an explanation in their consultation response dated 24th January 2019 and consideration as to why these applications are not comparable to this application site.

Planning Consideration of DFI Roads response

Officers consider that in relation to DFI Roads request that Elagh Road be permanently diverted along a future realigned Elagh Road via Elagh Business Park; that this is not considered quality future planning or an acceptable form of development to allow a housing development to access through an existing industrial zoning.

Additionally, DFI Roads request to use a planning agreement which would be statutory charged so that prospective buyers would be made aware that Elagh Road in future will be closed up is not acceptable to Planning. Planning Agreements for housing developments are usually required to ensure that necessary facilities and works are provided to help guarantee a 'quality' development. Officer's opinion is that DFI Roads request for a Planning Agreement is unreasonable and unacceptable as this would pre-determine a future stopping up / abandonment process. This cannot be dealt with through a planning agreement, as it is not necessary for the development in planning terms. Members will be aware that S76 Planning Agreements have been previously used as a valuable mechanism for securing planning matters arising from a development proposal. It is not considered appropriate to use agreements to i.e. seek improvements, upgrades or replacement of infrastructure which do not arise directly from the proposed development. Officers therefore consider that a Planning Agreement cannot be used as a mechanism to secure an access through an existing industrial zoning to serve the development or to prohibit any future objection on the stopping up/abandonment of Elagh Road, as a result of the A2 Buncrana Road widening scheme. As advised earlier in this report Officers would stress to Members that the future 'Stopping up/Abandonment Order' to re-align Elagh Road for the delivery of the A2 Buncrana Road is a separate legislative process that also has to go through public consultation, and as stated above there is **no guarantee of a successful outcome**.

Officers therefore consider that the request by DFI Roads to point 1 above is unreasonable and unacceptable in planning terms. Officers consider that as point 1 cannot be delivered; DFI Roads

request at point 2 requiring the temporary access through Elagh Business park to be included in the red line and to revisit the junction surveys is not applicable at this time given officers consideration that to divert Elagh Road through an existing industrial zoning is not an acceptable form of residential or sustainable development or positive place making which the SPPS aims to achieve.

In light of all of the above, and in consideration of the information available for this application; a satisfactory resolution to progress an acceptable access from the site has not been agreed. This is a legacy application, almost 11 years in the system. On this basis therefore officers have no other option than to progress the application, and requested that DFI Roads provide refusal reasons for the proposal. DFI Roads have advised therefore on this basis that the proposal is contrary to PPS 3 policy AMP 4 in that the development would if approved prejudice the delivery of the A2 Buncrana Road Strategic Route Improvement Scheme; and, is contrary to AMP 2 of PPS 3 in that the existing access arrangements are not acceptable for the mitigation required to Elagh Road/Buncrana Road Junction. See detailed refusal reasons later in this report.

Planning Policy Statement 2 Natural Heritage Interests

Natural Environment Division recommended that a Preliminary Ecological Appraisal (PEA) be carried out which may identify the need for further surveys on the site to assess potential impact on bats, badgers, otters and newts. A newt survey was provided in June 2010, NED advised previously that this survey is out of date. Confirmation was also required with regards to vegetation on site. The agent engaged Nelson Ecology Ltd to carry out the PEA of the site and a Bat Survey; and this was received in December 2018. NED was subsequently consulted with the PEA and they advised that they had concerns as the PEA did not appear to have considered otters and requested clarification from the ecologist on this matter. A letter received from the ecologist, 'Nelson Ecology Ltd' on 6th February 2019 confirms that no area of the site or within 50m of the site boundaries was suitable habitat for Otters; and as described in the PEA report the small shucks were overgrown and no areas of suitable otter habitat were associated within the site. Officers are content that confirmation from the ecologist demonstrates there will be no impact on otters.

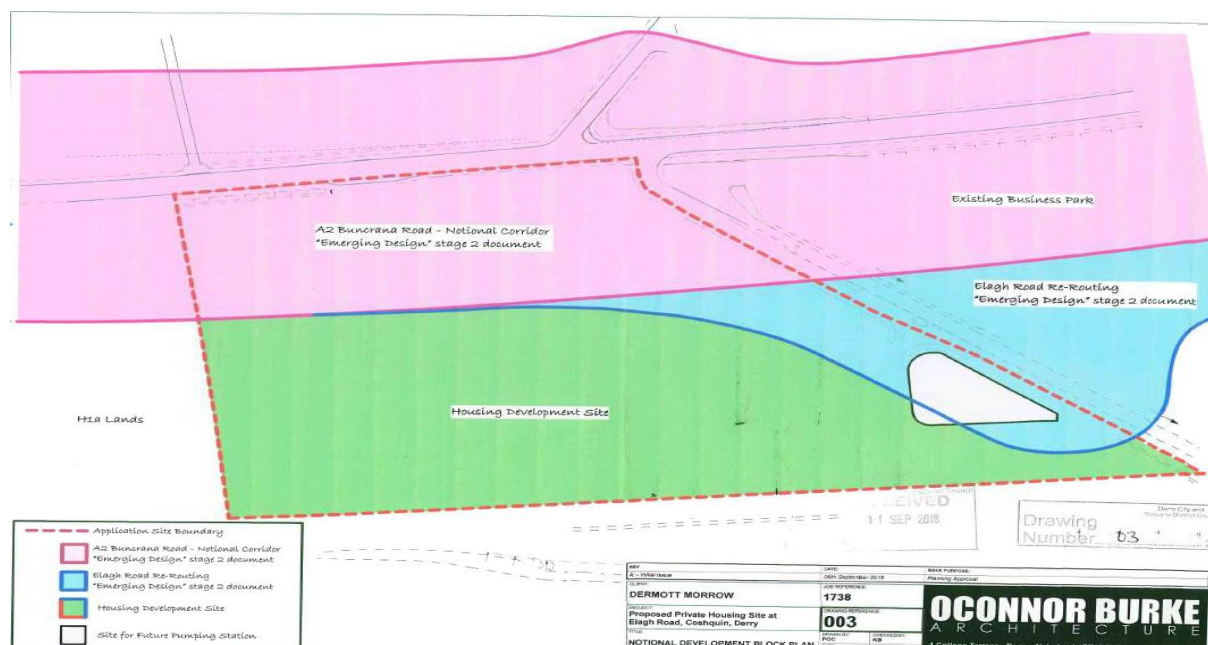
NED also welcomed the retention of all trees, hedgerows and planting along the north east boundary as per drawing 12 rev 2 date stamped 11 September 2018. NED recommend that any additional planting is of native species. NED also notes that all trees on site have been classified as negligible bat roosting potential however bats may still use the site and the adjacent watercourse for foraging and commuting and therefore advise that a bat friendly lighting plan is submitted. Officers would be content that if the principle of this development were to be established, then a condition could be

imposed requiring a bat friendly lighting plan to be submitted at either reserved matters/full application stage. The proposal therefore complies with PPS 2.

PPS 7 Quality Residential Environments: Policy QD1 Quality in new Residential Development

All of the QD1 criteria (a-i) are expected to be met; they are each assessed below:

The agent has provided a number of concept plans throughout the processing of the application to try to resolve the road issues; mainly that DFI Roads has an issue with the development currently accessing from Elagh Road, as in the future and as part of the Buncrana Road widening scheme the Elagh Road will have to be stopped up. The latest concept plan submitted in September 2018 is assessed below;



A2 Buncrana Road - Notional Corridor Emerging Design Stage 2

Concept Plan received September 2018.

The plan takes into consideration the most recent notional corridor identified on the A2 Buncrana Road 'Emerging Design' stage 2 document. The housing is now shown only on the part of the site beyond the protected area of 'The preferred Route', and therefore would not prejudice the delivery of Buncrana Road Dualling scheme. The agent also proposes that the dwellings will use the existing Elagh Road to serve the development and have also identified two potential future links into the H1A lands adjacent to the site. As the housing concept layout has been reduced from 46 dwellings to 26

to the concept could be achieved i.e. through relocating the position of some dwellings and the open space.

In terms of the criteria therefore in QD1 in PPS 7 officers consider;

- a) The development respects the surrounding context as there is existing housing in the immediate area at Drumkeen Park and Benview. The concept layout as advised above could be considered acceptable if not all the land take for the A2 widening scheme was required; and as indicated on the concept plan additional dwellings would then front onto Buncrana Road. If all the land is required the officers would be content that an acceptable layout could be achieved with a small amendment to the current concept plan or detailed layout at full/reserved matters application stage.
- b) There are no features of archaeological or built heritage identified. Landscape features of the site have been identified and the concept illustrates that all trees and hedgerows particularly on the north east boundary will be retained.
- c) The concept plan illustrates that the dwellings will have adequate private amenity space in accordance with the guidance of Creating Places, with plots well in excess of the recommended 70sq metres recommended guidance. Public open space has been provided for with a central square of open amenity space provided within the development.
- d) Given the size of the development local neighbourhood facilities are not required for this development; however the proposal is in close proximity to Whitehouse Retail Park. The Cosh Bar and Restaurant is also located opposite the site.
- e) A movement pattern is provided within the development as shown on the concept plan with access shown onto the existing Elagh Road.
- f) The concept plan illustrates that there will be adequate and appropriate provision for parking with all proposed dwellings having in-curtilage parking within each individual plot.
- g) The detailed design is not required as this is an outline application however details would be required at reserved matters/full application stage.
- h) The proposal will not conflict with adjacent land uses, and there are no residential dwellings adjacent to the site therefore there would be no impacts on existing residential properties.
- i) The development is designed to deter crime and promote personal safety as all dwellings currently front onto the open space providing supervision.

In terms of the concept layout plan the proposal meets the criteria of PPS 7 QD 1; and could be amended to take into account the dwelling frontages as would be required onto Buncrana Road. In this instance therefore Officers do not consider a reason for refusal could be sustained on the housing layout.

PPS 8 Policy OS2 Public Open Space in new Residential Development

Policy requires that for 25 dwellings or more that public open space is required as an integral part of the development. The concept layout submitted indicates a large area of open space centrally located within the site which meets the 10% requirement as set out in PPS 8. Provision of open space is therefore considered acceptable.

Conclusion and Recommendation

The site is located on un-zoned land within the Derry Area Plan. The key issue with this proposal is the acceptability of an access onto Buncrana Road. In summary, the DFI roads request to have the proposed housing development accessing through Elagh Business Park, (which is zoned for industry), because in the future Elagh Road will have to be stopped up/abandoned as part of the Buncrana Road Widening Scheme, is considered by officers to be an inappropriate form of development and would not meet the guiding principles of sustainable development as set out in the SPPS.

All other material considerations have also been taken into account, however on the basis therefore that an adequate access cannot be achieved for this development in accordance with PPS 3, it is therefore recommended that the Council's Planning Committee refuse planning permission A/2008/0236/O for the proposed development for the following reasons;

1. The proposed development is contrary to AMP4 (Protection of New Transport Schemes) of PPS3 Access, Movement and Parking in that the development if approved would prejudice the delivery of the A2 Buncrana Road Strategic Route Improvement scheme.
2. The proposed development would if permitted prejudice the safety and convenience of road users since it is contrary to Planning Policy Statement 3, Access Movement and Parking Policy AMP2 Access to Public Roads in that the standard of the existing and proposed temporary access arrangements are not acceptable in that they have not demonstrated compliance with

the access Standards - DCAN15 – Vehicular Access Standards for access to Elagh Road and the Design Manual for Roads and Bridges for the mitigation required to the Elagh Road/Buncrana Road junction