



<b>Planning Committee Report LA01/2018/1190/O</b>	<b>23rd September 2020</b>
<b>PLANNING COMMITTEE</b>	

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

<b><u>No:</u></b> LA01/2018/1190/O	<b><u>Ward:</u></b> BALLYKELLY
<b><u>App Type:</u></b> Outline Planning	
<b><u>Address:</u></b> Former Shackleton Barracks Ballykelly ( immediately North of 20 Dukes Lane and 13-22 Hyacinth Avenue and immediately East of Walworth Park )	
<b><u>Proposal:</u></b> Demolition of existing buildings and erection of Data Centre (approximately 25,000m2 ).	
<b><u>Con Area:</u></b> N/a	<b><u>Valid Date:</u></b> 01.10.2018
<b><u>Listed Building Grade:</u></b> N/a	
<b>Agent:</b> TSA Planning, 20 May Street, Belfast	
<b>Applicant:</b> Brian McConville, MJM Group, Carnbane Business Park, Newry	
<b>Objections:</b> 2	<b>Petitions of Objection:</b> 0
<b>Support:</b> 0	<b>Petitions of Support:</b> 0

## Executive Summary

- The proposal is considered acceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- While the site is outside the settlement development limit of Ballykelly as defined by the NAP 2016, it is located in a densely urbanised area that lies directly into and forms part of the footprint of Ballykelly.
- There are no unacceptable adverse impacts upon archaeology, listed buildings, flooding, wastewater network, natural heritage or relationship with neighbouring properties.
- The principle of development, scale, massing, layout, access, parking and Habitat Regulation Assessment are acceptable.
- There have been 2 objections that have been received in relation to this application.
- No statutory consultee have raised any concerns with this proposal.
- The proposal complies with all relevant planning policies including the Northern Area Plan, SPPS, PPS 2, PPS 3, PPS 4, PPS 6, PPS 11 and PPS 15.
- Approval is recommended.

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://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 sections 7 and 8 and resolves to **APPROVE** planning permission subject to the conditions set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 This is a rectangular shaped portion of land and existing buildings measuring approximately 5.51 hectares in area. The site is currently vacant and was previously Shackleton Army Barracks. The site is accessed from Dukes Lane in the South Eastern corner of the site. The topography of the site falls slightly lower to the North. The majority of the site is enclosed by a green metal fence which ranges in height from approximately 4-6 metres. Some of the southern boundary adjacent to the entrance is defined by 2.6m wooden panel fence.
- 2.2 The closest water course is 118 metres to the south west of the site but given the size of the site there may be underground drains. There are numerous single storey buildings on site and these buildings are proposed to be demolished and to be replaced by the data centre.
- 2.3 The site is outside the settlement limits of Ballykelly as shown in NAP 2016 but it is within a built up area with housing to the south and west of the site and commercial enterprises to the east.

## **3 RELEVANT HISTORY**

LA01/2018/0938/PAD - Former Shackleton Barracks Ballykelly - Demolition of existing buildings and erection of Data Centre ( approx. 25000m2) - PAD Concluded - 14<sup>th</sup> December 2018.

LA01/2018/0617/PAN - Former Shackleton Barracks Ballykelly Co. Derry (immediately North of 20 Dukes Lane and 13-22 Hyacinth Avenue and immediately East of Walworth Park) - Demolition of

existing buildings and erection of Data Centre ( approx. 25000m2). -  
Proposal of Application Notice Acceptable - 1<sup>st</sup> June 2018

## **4 THE APPLICATION**

- 4.1 Outline Planning Permission is sought for “Demolition of existing buildings and erection of Data Centre (approximately 25,000m2 ).”

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

All neighbours identified for notification within the terms of the legislation where notified on 31<sup>st</sup> October 2018, 31<sup>st</sup> January 2019 and 17<sup>th</sup> February 2020. The application was advertised on 17<sup>th</sup> October 2018 and 4<sup>th</sup> March 2020.

### **5.2 Internal**

Environmental Health Department: No objections

Public Health: No objections

DFI Rivers: No objections

Shared Environmental Services: No objections

DAERA – Drainage and Water: No objections.

DAERA – Natural Environment Division: No objections

DAERA – Land, Soil and Air: No objections

Historic Environment Division – Historic Buildings: No objections

Historic Environment Division – Historic Monuments: No objections

NI Water: No objections

Loughs Agency: No objections

DFI Roads: No objections

## **Proposal of Application Notice**

- 5.3 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) under application LA01/2018/0617/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 and there were no written public comments from members of the public in reference to the proposed development.
- 5.4 The applicant advertised a pre-application public information event for the application by placing advertisements in the The Sentinel and The Chronicle which were published on 23<sup>rd</sup> May 2018 and 31<sup>st</sup> May 2018. The applicant also notified local elected representatives and residents via post. The consultation event took place on 5<sup>th</sup> July 2018 at the site. The event was held between 3.30pm and 7.30pm. 25 people attended the event. A follow up event took place on 16<sup>th</sup> August 2018 between 12 and 3.30 pm. 14 people attended the follow up event. Attendees were invited to provide comments on the proposed development by way of a comment card.
- 5.5 The applicant indicated that there were a number of queries expressed regarding the size and scale of the building, its proximity to dwellings, noise pollution and radiation.
- 5.6 Results from the PAN are highlighted in the pre-application community consultation report. It contains a copy of the newspaper advertisements, the addresses to which notifications were sent. The feedback pro-forma, attendance register and exhibition sketches.

## **Community Consultation Report**

- 5.7 The community consultation report (CCR) was submitted as part of the planning application, received on 1<sup>st</sup> October 2018 which is more than 12 weeks after the Proposal of Application Notice was received, as required by the legislation.
- 5.8 It contains a copy of the methods of consultation carried out, comments and feedback from the consultation exercise in the local context. The report demonstrates that consultation was implemented as agreed in the Proposal of Application Notice.

## **Environmental Impact Screening Opinion**

- 5.9 As the development is within Category 10(B) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017 the Council is obliged under Regulation 12(1) of these Regulations to make a determination as to whether the application is for EIA development. The Council determined on 18<sup>th</sup> October 2018 that the proposal is not an EIA development and as such this planning application, did not need to be accompanied by an Environmental Statement.

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

## **7.0 RELEVANT POLICIES & GUIDANCE**

### The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 (PPS 2) Natural Heritage

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking

Planning Policy Statement 4 (PPS 4) Planning and Economic Development

Planning Policy Statement 6 (PPS 6) Planning, Archaeology and the Built Heritage

Planning Policy Statement 11 (PPS 11) Planning and Waste Management

Planning Policy Statement 15 (PPS 15) Planning and Flood Risk

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to: Principle of Development, Natural Heritage, Access, Movement and Parking, Archaeology, Impact on Listed Buildings, Proximity to WWTW, Flood Risk, Safeguarding Residential and Work Environs, Habitat Regulation Assessment and Representations.

### **Principle of Development**

8.2 A key material consideration here is that while the site is outside the settlement development limit of Ballykelly as defined by the NAP 2016, it is a densely urbanised area that lies directly into and forms part of the footprint of Ballykelly. This area was excluded from the settlement limit as it was a Ministry of Defense site. In these circumstances PPS 21 Sustainable Development in the Countryside policy CTY 1 and PPS 4 - PED 5 relating to major development in the Countryside are not the lead applicable policies in this case. Taking this approach, policy PPS 4 PED1 Economic Development in settlements is more applicable to the proposal. Policy PED 9 the general criteria is relevant to this proposal.

8.3 Planning policy statement 4 Planning and Economic Development Policy PED 1 Economic Development in settlements is a material consideration. Ballykelly is a town and a data centre is classified as Class B4, so the relevant part of the policy states; Class B4 Storage or Distribution Use - A development proposal for a 'Class B4 storage or distribution use will be permitted where it can be demonstrated that the scale, nature and design of the proposal are appropriate to the character of the settlement and it is not incompatible with any nearby residential use.' There is an acceptable scale of the proposal in comparison to 20 Dukes Lane which is one of the closest residential properties at 32 metres away. The lower tier of 8 metres height steps up to 12 metres. The lower tier closest to residential properties negates the impact of the difference in heights to an acceptable level. The design has offices with windows facing east away from residential properties which will mean there is negligible overlooking. The scale, nature and design will be considered further under PED 9. The principle of a data centre is acceptable at this location if it meets the general criteria for such types of development under policy PED 9.

8.4 During the processing of the application the applicant has reduced the height of the building to 8 m for the lower tier and 12 m for the upper tier, previously the height had been 16.5 m at its highest point. Outside plant has been removed from the drawing and landscaping plans have been amended to retain mature trees and to augment further planting of the site. The scale of the proposal set back 32 metres from 20 Dukes Lane, with the lower tier closest to residential properties is acceptable, the design has offices with windows facing east away from residential properties which will mean there is negligible overlooking.

8.5 Policy PED 9 - General criteria for economic Development applies and states that a proposal for economic development use, in addition to the other policy provisions of this statement will be required to meet all the following criteria:

(a) it is compatible with the surrounding land uses;

The proposal is for a Data Centre on a site previously used as an army barracks with residential dwellings to the west and to the south with the vacant remainder of Shackleton Barracks to the east and farm land to the north surrounding the site. By bringing this site back into use and by creating employment prospects for local people, the use on site which has no identified odour or noise issues would be



compatible with its surroundings. The proposal complies with criteria “a”.

- 8.6 (b) it does not harm the amenities of nearby residents ; The applicant has submitted reports such as an Electromagnetic Field Assessment, day light shadow assessment, generic quantitative risk assessment and drainage assessment. Environmental Health & Public Health have been consulted and have considered issues such as noise, light, radiation and odour. They are content subject to conditions. The Electromagnetic Field Assessment has demonstrated safe levels of radiation at a sample of 5 nearby properties. The power to the proposal is connected through a 33kW overhead line to the north away from residential properties which mitigates one potential source of radiation because of the distance to the overhead line. The submitted Generic Quantitative Risk Assessment has indicated no significant pollutant linkages associated with the site and the proposed development. A drainage assessment has been submitted which indicates that storm water will be attenuated and discharge to an existing undesignated culvert at pre-development rate. The proposed measures when implemented shall reduce the risk of flood risk.
- 8.7 The scale of the proposal has been reduced from 16.5 metres to 12 metres with a step down to 8 metres. The highest part of the roof is to the North of the site which is the furthest point from residential properties. Given the Data Centre is located North of Dukes lane and Hyacinth Avenue, overshadowing does not affect these properties due to the sun path. The dwellings to the West at Walworth Park are on average 40m from the proposed building, given that the building is stepped meaning it is 8 m in height at the closest point and that the existing boundary fence is 4m in height, any overshadowing in the morning will be negligible. The day light shadow assessment over a 12 month period demonstrates no detriment in terms of unacceptable overshadowing to houses and gardens along Hyacinth Avenue and Walworth Park. The submitted proposal, supporting information and consultee responses have demonstrated that it does not harm the amenities of nearby residents therefore the proposal complies with criteria “b”.
- 8.8 (c) it does not adversely affect features of the natural or built heritage; The proposal retains existing trees in the western area of the site, these are the only natural heritage features on site. The site adjoins the outer edge of a Archaeology zoning. The applicant has submitted a Archaeological Impact Assessment and HED Historic monuments have been consulted and are content. HED Listed Buildings have

also been consulted and are content as the the proposal is far enough removed as to not affect any listed buildings. The proposal complies with criteria “c”.

- 8.9 (d) it is not located in an area of flood risk and will not cause or exacerbate flooding; the site is outside the flood plain, however due to the size of the site, a drainage assessment was required and submitted by the applicant. DFI rivers are content that the proposal will not exacerbate flooding and that the proposal complies with PPS15 policy FLD 3. The proposal complies with criteria “d”.
- 8.10 (e) it does not create a noise disturbance; EH have been consulted and are content subject to conditions. The proposal complies with criteria “e”.
- 8.11 (f) it is capable of dealing satisfactorily with any emission or effluent; The applicant has indicated mains for foul sewage disposal and storm drains for surface water. NI Water have been consulted and have confirmed available capacity at the WWTW. The proposal complies with criteria “f”.
- 8.12 (g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified; A Transport Assessment and plans were submitted by the applicant. DFI Roads were consulted and are content subject to conditions. The proposal complies with criteria “g”.
- 8.13 (h) adequate access arrangements, parking and manoeuvring areas are provided; A Transport Assessment and plans were submitted by the applicant. DFI Roads were consulted and are content subject to conditions. The proposal complies with criteria “h”.
- 8.14 (i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport; No public rights of way have been identified. Due to close the proximity to Dukes Lane there is convenient access to the local bus routes. A movement pattern is provided which means people could walk or cycle to the site given the adjacent public road and footpath. There are no cycling facilities in the immediate vicinity of the proposed development. However, it is reasonable to suggest that cycling could be a viable alternative mode of transport to the site. The proposal complies with criteria “i”.

- 8.15 (j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; This is an outline application so full detail will be provided at reserved matters stage however the submitted plans show an acceptable layout and dimensions for a building which will be used as a data centre. The retention of mature boundary trees and a landscaping scheme will promote biodiversity. The proposal complies with criteria “j”.
- 8.16 (k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view; The existing high fence that is on average 4 - 5 metres high is to be retained. By retaining this fence most of the site will be screened from public view. After the scheme was amended, photograph montages from 2 critical view points from Hyacinth Avenue and Dukes Lane have been submitted which demonstrate that there is some screening of the site and that the proposal as amended will not have an overbearing nature on the surrounding area. The proposal complies with criteria “k”.
- 8.17 (l) is designed to deter crime and promote personal safety; The layout with the existing 4 - 5 metre fence will deter crime. The site is currently vacant so by putting the site back in use this will also deter crime and promote personal safety. The proposal complies with criteria “l”.
- 8.18 (m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape. The applicant has submitted a comprehensive planting scheme with hawthorn on the boundary and a mixture of maple, alder and ash within the site. This landscaping scheme will assist integration into the landscape. The proposal complies with criteria “m”.
- 8.19 The proposal complies with PPS 4 policies PED1 and PED 9. The principle of development is acceptable. All other policies will now be considered.

### **Natural Heritage**

- 8.20 PPS 2, Policy NH2 – Species Protected by Law states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species. In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:
- There are no alternative solutions; and

- It is required for imperative reasons of overriding public interest; and
- There is no detriment to the maintenance of the population of the species at a favourable conservation status; and
- Compensatory measures are agreed and fully secured.

8.21 An ecological Impact report was submitted and considered by DAERA Natural Environment Division (NED). NED have concluded that the site contains a number of natural heritage features that contribute to the maintenance of local biodiversity. The report mentions that a mature silver birch tree located to the west of the site is identified as providing moderate bat roost suitability. NED requested a bat emergence re-entry survey within their consultation response of 11 December 2018. The applicant amended the plans to retain the single tree that has bat roost potential. NED were re-consulted and on 15 February 2019 they responded to confirm that they had no concerns subject to conditions. The proposal complies with policy NH2.

8.22 Policy NH5 – Habitats, Species or Features of Natural Importance states applies and states planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:

- Priority habitats
- Priority species
- Active peat land
- Ancient and long established woodland
- Features of earth science conservation importance
- Features of the landscape which are of major importance for wild flora and fauna
- Rare or threatened native species
- Wetlands (includes river corridors); or
- Other natural heritage features worthy of protection.

8.23 An ecological Impact report was submitted and considered by DAERA Natural Environment Division. Conclusions are that the site contains a number of natural heritage features that contribute to the maintenance of local biodiversity. The report mentions that a mature silver birch tree located to the west of the site is identified as providing moderate

bat roost suitability. NED request a bat emergence re-entry survey within their consultation response of 11 December 2018. The applicant amended the plans to retain the single tree that has bat roost potential. NED were re-consulted and on 15 February 2019 they responded that they had no concerns subject to conditions. The proposal complies with policy NH 5.

### **Access, Movement and Parking**

8.24 Policy AMP2 of PPS3 Access, Movement and Parking applies and states for access to public roads planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, into a public road where;

- Such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- The proposal does not conflict with policy AMP3 Access to Protected Routes.

8.25 The applicant has submitted plans to demonstrate safe access to the public road. Dukes Lane is not a protected route. DFI Roads were consulted and are content. The proposal complies with Policy AMP 2 of PPS3 Access, Movement and Parking.

8.26 PPS 3 - Policy AMP 6 Transport Assessment applies and states 'In order to evaluate the transport implications of a development proposal the Department will, where appropriate, require developers to submit a Transport Assessment.' A TA was submitted by the applicant and DFI roads consulted. DFI roads replied on 20 November 2019 that they were content subject to conditions. The proposal complies with policy AMP 6.

### **Archaeology**

8.27 Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage and paragraph 6.9 applies. Policy BH2 the protection of archaeological remains of local importance and their settings states development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question. The site is outside the zone of

archaeology but the site shares a boundary with this zone to the West and to the South. HED were consulted and requested an Archaeological Impact Assessment. HED have reviewed the Archaeological Impact Assessment, the consultation response of 26 March 2019 confirms HED:HM are content subject to conditions which includes a Programme of Works (POW) to be submitted and approved by the department to be followed by an Archaeological Report. To date, the site has not been adequately assessed for defence heritage remains and the included recommended programme of works is therefore insufficient. To resolve this matter this will be conditioned through a new programme of works. As HED :HM are content subject to conditions the proposal complies with policy BH 2.

8.28 Paragraph 6.12 of the SPPS and Policy BH4 Archaeological Mitigation applies and states where it is decided to grant planning permission for development which will affect sites known to contain archaeological remains, the Department will impose conditions to ensure that appropriate measures are taken for the identification and mitigation of the archaeological impact of the development, including where appropriate the completion of a licensed excavation and recording of remains before development commences. Similar to the assessment under policy BH2, the site has not been adequately assessed for defence heritage remains and the included recommended programme of works is therefore insufficient. However as HED: HM are content subject to conditions including a new programme of works the proposal complies with policy BH 4.

### **Impact on Listed Buildings**

8.29 Paragraph 6.12 of the SPPS and PPS 6 Policy BH 11 Development affecting the setting of a listed building applies and states the Department will not normally permit development which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- (c) the nature of the use proposed respects the character of the setting of the building.

8.30 There are a number of listed buildings in Ballykelly and Shackleton but none are in the vicinity of the proposal. HED Historic Buildings were consulted and are content because the proposal is sufficiently removed from the historic buildings to have no demonstrable harm on their setting. The proposal complies with policy BH 11.

### **Proximity to WWTW**

8.31 PPS 11 Policy WM 5 Development in the vicinity of Waste Management Facilities applies and states; Proposals involving the development of land in the vicinity of existing or approved waste management facilities and waste water treatment works (WWTWs), will only be permitted where all the following criteria are met;

- it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and
- it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.

8.32 The proposal is in close proximity to a WWTW. The WWTW is 80 metres north west of the site location. NI Water were consulted and they have requested that the developer should enter into early discussion with NI Water by means of a Development Encroachment Application to agree the limit of development and / or associated conditions. The developer has submitted a Development Encroachment application directly to NI Water so has met NI Water's request. Environmental Health on 18<sup>th</sup> July 2019 have commented that the treatment works has not been the subject of any complaints with regard to odour or noise. It is proposed that the treatment works will be replaced with an integrated constructed wetland which should not give rise to odour issues. As NI Water and Environmental Health are content the proposal complies with Policy WM 5.

### **Flood Risk**

8.33 Paragraph 6.107 of the SPPS and Policy FLD 3 of the Revised Planning Policy Statement 15 - Planning and Flood Risk applies. DFI Rivers comment that the site lies just outside the 1 in 100 year fluvial flood plain meaning it is outside the floodplain so Policy FLD1 does not apply. The site is unaffected by a designated watercourse so Policy FLD 2 does not apply.

8.34 FLD 3 states a drainage assessment will be required for all development proposals that exceed any of the following thresholds:

- A residential development comprising of 10 or more dwelling units
- A development site in excess of 1 hectare
- A change of use involving new buildings and / or hardsurfacing exceeding 1000 square metres in area.

8.35 A drainage assessment is required due to the size of the proposed development. The applicant submitted a Drainage Assessment on 28 November 2018. DFI rivers requested calculations to confirm the discharge rates and attenuation volumes stated in the report. The applicant submitted further information as requested and DFI Rivers were re-consulted. DFI Rivers commented that the DA indicates that storm water will be attenuated and discharged to an existing undesignated culvert at pre-development rate. DFI rivers commented on 24 April 2019 that they are content subject to conditions. The proposal complies with policy FLD 3.

### **Safeguarding Residential and Work Environs**

8.36 There are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development. The planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

8.37 Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

8.38 Sewage capacity has been considered and NIW has been consulted and they were content that there is available capacity. Nuisance such



as noise has been considered. A noise assessment has been submitted by the applicant. EH have been consulted and are content subject to conditions limiting noise. With a development of this size with a high usage of electricity, the radiation emitted from the proposal is a material consideration, Public Health have been consulted and are content subject to not exceeding ICNIRP guidance. DAERA Land Soil Air requested further radiological testing but on 22<sup>nd</sup> April 2020 they stated they were content subject to conditions such as a radiological survey occurring prior to demolition. Further assessment of safeguarding residential and work environs is set out above under policy PED 9 (Paragraphs 8.2 - 8.19)

### **Habitats Regulations Assessment**

8.39 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The closest water course is 118 metres to the south west of the site which is linked to Lough Foyle 1.37km to the north west of the site. Shared Environmental Services were consulted and are content subject to conditions. The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Representations**

8.41 There have been 2 representations that have been received. On 14 November 2018 one representation was received from a residential property at 17 Hyacinth Avenue. Issues raised are noise pollution caused by the operation of the Data Centre, size and scale of the building that may result in detrimental effect on natural light, radiation emitted from the proposed building due to its usage.

8.42 A site visit to the property was facilitated on 11 December 2018. Noise pollution has been considered. A noise assessment was submitted by the applicant and Environmental Health (EH) considered the details and are content subject to conditions. The original size and scale of the building at maximum height was considered unacceptable, the applicant reduced the height to maximum 12 m and neighbours were re-notified. The objectors did not submit any further objections. Loss of natural light has been considered in paragraph 8.7. The conclusions are that there would be no unacceptable detriment in terms of overshadowing to houses and gardens from the proposal. Public Health have commented on radiation from the

development and are content, they have added an informative. All issues have been considered.

8.43 On 14 November 2018 a representation was received from a residential property at 16 Walworth Park. Issues raised are noise during demolition and construction, the size of the proposed building, loss of a view and additional traffic. A site visit was carried out to the property on 11 December 2018, noise nuisance has been considered by EH as shown above in paragraph 8.42. The original size and scale of the building at maximum height was considered unacceptable, the applicant reduced the height to maximum 12m and neighbours were re-notified. The applicant did not submit any further objections. Loss of view is not a material planning consideration. Additional traffic has been considered in the Transport Assessment, DFI Roads are content. All issues have been considered.

## **9.0 CONCLUSION**

9.1 The proposal is considered acceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. The principle of the data centre is acceptable on this former barracks site . The detailed design will be considered further at reserved matters stage. The layout and elevations submitted are appropriate for the location. All natural heritage, archaeology, contamination, radiological, flooding, relationship with neighbouring properties and roads issues have been considered and found acceptable subject to conditions. The proposal complies with policy. Approval is recommended.

## **10 CONDITIONS**

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. No development shall take place until a plan indicating floor levels of the proposed building in relation to existing and proposed ground level has been submitted and approved by the council.

Reason: To ensure the building is not prominent.

4. The depth of under building between finished floor level and existing ground level shall not exceed 0.45 m at any point.

Reason: In the interest of visual amenity.

5. The reserved matters application submitted shall be in general conformity with drawings No 01 received 1<sup>st</sup> October 2018, No 02 REV 04 received 12 Feb 2020 and Nos 03 REV 02 - No 04 REV 01 received 7 Feb 2020.

Reason: To ensure a satisfactory form of development.

6. No development shall take place on the site until a landscaping scheme has been submitted to and approved by the Planning Authority showing

- Details of all proposed soft and hard landscaping ;
- Details of all existing and proposed site boundary treatments
- Existing vegetation / trees as shown on drawing No 04 REV 01 received 7 Feb 2020 to be permanently retained.

The scheme of planting as finally approved shall be in accordance with drawing No 04 REV 01 dated 7 Feb 2020 and be carried out during the first 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 Planning Authorities gives written consent to any variation.

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

7. The proposed building shall have a roof height no greater than 12 metres above finished floor level.

Reason: In the interests of neighbouring and visual amenity.

8. The proposed floor space of the building shall not exceed 25 000 square metres.

Reason: To ensure the scale of the development is appropriate for the location.

9. No development including demolition shall take place until a radiological survey of the interiors of the former armoury and armers workshop buildings (buildings 184 and 461) has been carried out.

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

10. No development including demolition shall take place until a radiological survey of the interior of a building with radioactive signage on the door (recorded in the preliminary risk assessment of a report on a survey of the former Shackleton Barracks site carried out by Entec) has been carried out.

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

11. No development including demolition shall take place until a radiological survey of the area identified as a 'former incinerator compound with ash' in the preliminary risk assessment carried out by RPS has been carried out.

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

12. No development including demolition shall take place until the results of the radiological surveys specified in conditions 9, 10 and 11 have been submitted to and agreed in writing with the Council.

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

13. No development including demolition shall take place until a risk assessment and proposed mitigation (if applicable) has been submitted to and agreed in writing with the Council. This condition is only applicable if radioactive contamination is detected during the surveys undertaken for conditions 9, 10 and 11 above.

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

14. No development including demolition shall take place until any mitigation measures identified in condition 13 have been implemented. This condition is only applicable if radioactive contamination is detected during the surveys undertaken for conditions 9, 10 and 11 above.

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

15. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

16. Operational noise rating levels shall not exceed the existing background noise levels of:

32dB(A) daytime (07:00 – 23:00)

25dB(A) night-time (23:00-07:00)

at the sites boundary with residential properties.

Reason: In the interest of public health

17. Within 2 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 in order to:

- assess the level of noise immissions from the permitted development to demonstrate conformance with Condition 16.
- The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with the development operating at the maximum capacity.
- Details of the noise monitoring survey shall be submitted to Causeway Coast and Glens Borough Council for written approval prior to any monitoring commencing.
- 2 weeks prior notification of the date of commencement of the survey shall be provided.

The noise survey information shall include detail of:

- Any noise limit/s breaches
- Recommendation of acoustic mitigation required
- Confirmation of implementation of mitigation measures and evidence of noise limit/s conformance.

The noise survey information shall be provided within 4 weeks (unless extended with Causeway Coast and Glens Borough Council) further to a written request to the Council.

Reason: In the interest of public health

18. The permitted development operator shall submit a post completion/verification acoustic report which is representative of the development operating at full capacity.

The operator shall at his/her expense employ a suitably qualified and competent person to undertake a noise survey in order to:

- Assess the level of noise immissions from the permitted development to demonstrate conformance.
- The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with the development operating at the maximum capacity.
- Details of the noise monitoring survey shall be submitted to Causeway Coast and Glens Borough Council for written approval prior to any monitoring commencing.
- 2 weeks prior notification of the date of commencement of the survey shall be provided.

The noise survey information shall include detail of:

- Any noise limit/s breaches
- Recommendation of acoustic mitigation required
- Confirmation of implementation of mitigation measures and evidence of noise limit/s conformance.

The noise survey information shall be provided within 8 weeks (unless extended with Causeway Coast and Glens Borough Council) further to a written request to the Council from the date of the development becoming fully operational”.

Reason: In the interest of public health

19. Construction shall only take place on this site between the following hours:

08:00 -18:00 Monday – Friday

08:00 – 1300 Saturday

No activity Sunday and Bank holidays

Reason: In the interest of public health

20. The combined noise rating level of all construction noise associated with this site shall not exceed the following limits at the nearest noise sensitive receptors:

Day	Time	Limit
Monday - Friday	08:00 - 18:00	65dB LAeq
Saturday	08:00 - 13:00	65dB LAeq

Reason: In the interest of public health.

21. No development shall take place until a construction environmental management plan addressing noise, dust and vibration impacts arising from the site workings/activities is submitted in writing to, and agreed by Council. Such a plan shall state the mitigation measures to be employed to reduce/minimise noise, dust and vibration emanating from the activities carried out on site. All mitigations measures proposed shall have cognisance of best practice and all relevant guidance, British Standards and Codes of Practice. Site preparation, enabling and construction works shall be carried out in accordance with the agreed Construction Environmental Management Plan. Noise impacts shall be minimised/controlled by employment of best practice and mitigation measures in accordance with BS5228 Part 1 2009 Code of Practice for noise and vibration on Construction and Open Sites.

Reason: In the interest of public health.

22. All vehicles associated with construction on site shall be fitted with broadband spectrum reversing alarms.

Reason: In the interest of public health

23. Vibration arising from activities associated with the site shall not exceed 1mm/s ppv (peak particle velocity) at any residential property in the vicinity of the development site.

Reason: In the interest of public health

24. Within 2 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 in order to:

- assess the level of noise immissions from the permitted development to demonstrate conformance with Condition 20
- The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with the development operating at the maximum capacity.
- Details of the noise monitoring survey shall be submitted to Causeway Coast and Glens Borough Council for written approval prior to any monitoring commencing.
- 2 weeks prior notification of the date of commencement of the survey shall be provided.

The noise survey information shall include detail of:

- Any noise limit/s breaches
- Recommendation of acoustic mitigation required
- Confirmation of implementation of mitigation measures and evidence of noise limit/s conformance.

The noise survey information shall be provided within 4 weeks (unless extended with Causeway Coast and Glens Borough Council) further to a written request to the Council.

Reason: In the interest of public health.

25. At the reserved matters application stage of the planning process, a detailed Drainage Plan must be submitted to the Planning Authority. The plan shall also include the following:

- a) All measures to mitigate impacts of contaminated run-off during both the construction and operational phases of the proposal (e.g. silt fencing, swales, cellular storage, underground storage tanks, hydrocarbon



interceptors etc.). b) Identification and remediation procedure of any identified ground water boreholes on site.

Reason: To ensure the drainage plan for the proposal is assessed in suitable detail to ensure run-off associated with construction and operational activities is 'clean' prior to entering Lough Foyle Ramsar/SPA downstream.

26. No development shall commence until all fuel storage tanks (and associated infra-structure) are fully decommissioned and removed in line with current Guidance for Pollution Prevention (GPP 2) and the Pollution Prevention Guidance (PPG27) and the quality of surrounding soils and groundwater verified. Should contamination be identified during this process, Conditions 27 and 28 will apply.

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

27. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority 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 Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

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

28. After completing the remediation works under Conditions 26 and 27; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should 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, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

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

29. No development shall take place until any unforeseen (water supply) boreholes encountered during site clearance or groundworks are fully decommissioned in line with SEPA guidance document Good practice for

decommissioning redundant boreholes and wells (UK Groundwater FoWMM). Evidence for the decommissioning will be provided in the verification report required for Condition 28.

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

30. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division 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.

31. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- o The identification and evaluation of archaeological remains within the site;
- o Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- o Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- o Preparation of the digital, documentary and material archive for deposition.

Reason: To ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

32. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 31.

Reason: To ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

33. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the

excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 31. These measures shall be implemented and an archaeological report shall be submitted to the Council within 6 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

34. There shall be no direct discharge of untreated surface water run-off during the construction phase and operational phase to the Lough Foyle SPA, Ramsar and ASSI.

Reason: To mitigate potential impacts to the designated sites.

35. At Reserved Matters, a Lighting Plan must be submitted to the Planning Authority. The plan shall include the following:

- a) Specifications of lighting to be used across the site.
- b) All measures to mitigate for the impacts of artificial lighting on bats and other wildlife, including low lighting levels to be used across the site.
- c) A map showing predicted light spillage across the site (isolux drawing).

Reason: To minimise the impact of the proposal on bats and other wildlife.

36. No vegetation clearance/removal of hedgerows, trees or shrubs/demolition of buildings or structures shall take place between 1 March and 1 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

37. At Reserved matters a Landscaping and Planting Plan shall be submitted to the Planning Authority and no site clearance or development activity shall take place until the Plan has been approved in writing by the Planning Authority. The Plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The Plan shall include details of timings, compensatory planting with appropriate native species for trees/hedgerows to be removed:

Reason: To minimise the impact of the proposal on the biodiversity of the site, including protected/priority species.

38. All storm water from the development site should not be discharged to nearby watercourses unless first passed through pollution interception and flow attenuation measures. Storm water can carry pollutants into watercourses and high volume discharges can alter the prevailing hydrological regime, both of which can impact on fisheries interests.

Reason: To prevent pollution to surface waters which is detrimental to fisheries interests.

### **Informatives**

1. 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.

2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

3. This 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.

4. 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 Council or other statutory authority.

5. You should refer to any other general advice and guidance provided by consultees in the process of this planning application by reviewing all responses on the Planning Portal at <http://epicpublic.planningni.gov.uk/publicaccess/>.

6. Any radiological surveys carried out shall take into consideration the requirements of the Radioactive Substances Act (1993) and the Radioactive Contaminated Land Regulations (NI) 2006.

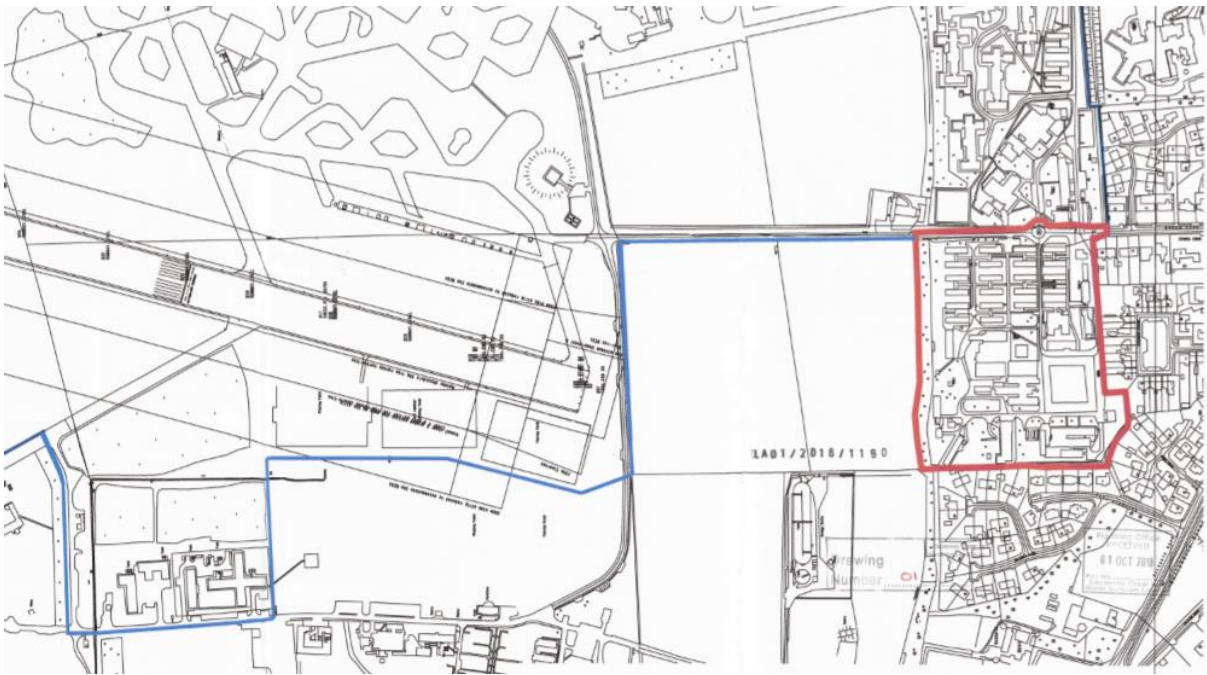
7. In respect of the general issue of potential adverse health effects of electromagnetic radiation we take our advice from the expertise of Public Health England (PHE) and in this respect I would refer you to their publication Health Effects from Radiofrequency Electromagnetic Fields - accessible online at

<https://www.gov.uk/government/publications/radiofrequency-electromagnetic-fields-health-effects> published in April 2012 which concluded that “although a substantial amount of research has been conducted in this area, there is no convincing evidence that RF field exposures below guideline levels cause health effects in adults or children. These ‘guideline levels’ are those of the International Commission on Non-Ionizing Radiation Protection (ICNIRP), which already form the basis of public health protection in the UK and in many other countries.” The developer /operator shall ensure that levels of electromagnetic radiation shall be below the ICNIRP guideline levels.

8. The purpose of the Conditions 26 – 29 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and end-use of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks

9. The archaeological report required to discharge condition 33 shall, prior to submission to the Council be classified as a Final report by Historic Environment Division, Department for Communities, as per the requirements of the archaeological excavation licence issued under Article 41 of the Historic Monuments and Archaeological Objects (NI) Order 1995.

## Site Location Map



# Block Plan



# Indicative Landscape Layout





# Proposed Elevations

