

Addendum 2

B/2013/0190/RM

1.0 Update

- 1.1 Since the application was added to the Agenda for the Planning Committee in September 2020, a further 9 separate pieces of correspondence have been received from 1 individual objector.
- 1.2 As each piece of correspondence raise a range of issues, each issue will be dealt with separately under topic headings.

2.0 Assessment

NIW

- 2.1 A third party states that Planning relies on NIW stating that there is adequate headroom at WWTW, the objector points out that NIW did not confirm if the WWTW is in breach of the Water Framework Directive for total discharge of Phosphates and total nitrogen into the River Roe SAC which is already failing WFD water quality standards therefore the River Roe and tributaries has no capacity.
- 2.2 Officials contacted NIW and the NI Water Wastewater & Waste Regulation Manager responded to advise that;
- 2.3 *“Where either freshwater or marine waters are identified as eutrophic, or at risk of becoming eutrophic, there is the requirement under the Urban Waste Water Treatment Directive to remove both phosphorus and nitrogen from discharges for qualifying Wastewater Treatment Works (WwTW) to Sensitive Areas and their catchments. For inland discharges this applies to works serving >2,000 Population equivalent (PE) and for coastal areas it applies to works serving >10,000PE. Bolea WwTW has a design PE of 130 and an actual PE of 113, so does not fall into these categories, therefore negating the requirement for phosphorus or nitrogen removal. This works was upgraded in January 2015 under the NI Water Rural Wastewater Investment Programme (RWwIP) and signed off by NIEA as a compliant works on 23rd July 2015.*

2.4 Officials would therefore advise that the development connects to the Bolea WWTW which has headroom capacity and does not fall into the category requiring phosphorus or nitrogen removal.

HRA

2.5 A third party raised the HRA carried out in February 2020 and refers to the Loughs Agency consultation on B/2015.0005/F dated August 2020 which raised serious concerns about SES HRA methodology which did not adequately address the potential adverse effects on site integrity of SAC.

2.6 The objection advised that Loughs Agency noted that one of the features of the River Roe SAC is atlantic salmon, which can be adversely affected by changes to nitrogen levels. The third party advised that the Curley burn is a spawning ground for salmon and other ecological features in SAC have exceeded threshold for nitrogen and advise that SES should have considered the cumulative impact/ in combination adverse effects of large-scale development projects on the waterways in the area which have not been considered or adequately addressed. The third party also highlighted that Loughs Agency raise concern that with HRA methodology, uncertainty remains as to whether Appropriate Assessment is capable of removing reasonable scientific doubt as to the effects of this project on the designated site concerned when the Conservation Status has not been updated. The objection advised that it would be unlawful for Planning to approve when gaps exist in HRA.

2.7 Shared Environmental Services were asked for their comments on the content of the objection and have advised as follows.

2.8 SES note that NIW has confirmed that sufficient capacity exists to accept the additional loading to its network and SES note the comments of the NIW Wastewater & Waste Regulation Manager detailed above.

2.9 SES have advised that the HRA specifically addressed potential adverse effects on the site integrity of the River Roe and Tributaries SAC. The HRA considers effects on European/Internationally

designated sites only (not ASSI/ANOB). There can be no conceivable effects on the SAC arising from any aspect of this development.

2.10 The HRA remains unchanged and SES have no objection subject to conditions.

Name and address of applicant

2.11 A further email was received which referred to the original committee report, to the Addendum and to the 3(2) of the General Development Procedure (NI) Order 2015 and seeks the name and address of the applicant and stated that it is a denial of citizens rights not to disclose this information.

2.12 Application B/2013/0190/RM was submitted on 6th September 2013, the relevant legislation at the time of receipt of the application was The Planning (General Development) Order (NI) 1993. Article 7 (1) of the Order did not require the name and address of the applicant and agent to be provided. Article 3 (2) of the Planning (General Development) Procedure (NI) Order 2015 did not come into effect until 1st April 2015. Therefore officials are unable to apply the 2015 Order retrospectively.

Mapping

2.13 Two further emails raised issue with the accuracy of the maps in that it is not based on the latest land registry maps and suggested that all mapping should be reviewed and updated.

2.14 The location map referred to in the planning committee report was dated 10th February 2014 and was numbered 1B and was submitted by the agent during the processing of the application. This map, drawn to a scale of 1:1250 and is sufficient for the purposes of planning. Planning does not confer title it is up to the developer to ensure that they own or control all land necessary to carry out the development.

Impact on Trees and TPO

2.15 The third party challenges the content of the committee report and the addendum regarding why the planning history takes precedence over the TPO and why the 1973 planning history is not relevant.

2.16 Officials refer to the paragraph 8.65 of the Planning Committee report and paragraph 2.18 of the addendum which covers the precedence of the outline planning history over 1973 permission and TPO.

2.17 Condition 1 of the 1973 permission for the objectors property states that “the three number trees on the southern boundary of the site are to be retained”. Officials acknowledge that 26 of the 47 trees surrounding the site have protection under a TPO. However, the outline planning permission included condition 11 which stated that “no protected tree, other than those required for the purpose of carrying out development authorised by the granted planning permission, shall be cut down, uprooted or destroyed, or have its roots within the crown spread damaged or subject to any soil level changes or be subject to any form of tree surgery, without the prior written consent of the Department”. Therefore application B/2010/0270/O granted outline permission in the full knowledge of the 1973 permission and the TPO status of the trees. The outline which was granted in March 2011 takes precedence over the 1973 approval and the TPO.

Uploading of objections

2.18 The third party raised concern about the legibility of some of the letters of objection which had been recently uploaded onto the planning portal.

2.19 The third party was advised that due to the pandemic, staff have been working from home and do not have access to a scanner. Therefore emails have been saved as a text document before they could be converted to PDF and this is where the formatting change has occurred. The objections were checked and the third party was advised that the recently received representations were legible.

EIA

2.20 The third party seeks justification for withdrawal of paragraph 8.53 of committee report, requests copy of EIA carried out at outline and advises that if no EIA determination was carried out at outline then outline is unlawful, is alarmed that report advises that RM is not schedule 2 of EIA Regulations advises and that Council is not applying a wide scope and broad purpose to interpretation of EIA Regs and Directive. The third party mentioned former Minister for Environment who advised assembly that any residential

development (even outside settlement development limit) if it meets schedule 2 will require EIA screening. The objection questions legitimacy and legality of approving a RM on back of outline which has not been subject to EIA and states that it would be unlawful for committee to make decision on that basis. The third party advises that they will take further courses of action if necessary.

2.21 Officials would refer to paragraphs 8.52 of the original committee report and paragraphs 2.17 to 2.19 of the Addendum and would add that the Interpretation regulations refers to construction projects such as housing developments where the underlying principle is that the project is of an urban nature and may cause similar types of environmental impact as a sports stadium, university, hospital, theatre, concert hall etc. A development of 2 houses in the rural area does not therefore fall within the definition of an urban development project.

3.0 Recommendation

3.1 That the Committee note the contents of this Addendum and agree with the recommendation to Approve the planning application as set out in section 9.0 and 10 of the Planning Committee Report and the first addendum.