

**From:** Andy Stephens [mailto: [REDACTED]]

**Sent:** 21 January 2021 13:49

**To:** Denise Dickson <Denise.Dickson@causewaycoastandglens.gov.uk>; Shane Mathers <Shane.Mathers@causewaycoastandglens.gov.uk>; Robert Kerr <Robert.Kerr@causewaycoastandglens.gov.uk>; [REDACTED]; [REDACTED]@infrastructure-ni.gov.uk

**Subject:** Speaking Request Items 5.1 - LA01/2018/1106/F - Unit 17 and adjoining land, Riverside Regional Centre, Coleraine

Dear Planning Office

Further to the above application being presented back to Planning Committee on 27/01/2021 and Addendum 4 having and correspondence Committee Report having been uploaded on 13/01/2021.

I would please request speaking rights in opposition to the above application and in support of the officers well founded refusal recommendation. The speaking rights are for both myself on behalf of Retail NI and Mr Jamie Hamill of Coleraine Business Improvement District.

There are several points, which I feel I need to raise in advance:

1. I note the inclusion of the NAP 2016 in the Conclusion of the Commit Report further to our previous representations and as expressed on Page 9 of the attached Minutes from 25/11/2020. However, there is no updated consultation response from the Development Plan Team on EPIC, nor is NAP 2016 included in the amended Reason for Refusal 3 on the final page (P.21) of the Committee Report. In my opinion there are two conflicts in NAP – 1) V&V of Coleraine Town Centre as outlined on P.9 and 2) Conflict with Designation BYT03 in Ballymoney given it is a designated and sequentially preferable alternative site. I would be grateful if you could please ensure the Development Plan Team's updated response is placed in the public domain and that NAP 2016 is included in Reason for Refusal 3, as suggested in the minutes and including BYT03. I would not wish for any party to claim prejudice that it was not before them as per Paragraph 5.72 of the SPSS.
2. In the approach to 25/11/2020 Planning Committee, I noted that the LDP Retail Capacity Assessment Update was presented to Planning Committee Members at Item 8.2 and that the summary of Nexus Planning's findings set out at Section 4 of the 2020 update highlighted that there is no capacity for comparison goods to 2035 and beyond in the Plan Area. Members were advised to accept the Nexus Planning Retail Capacity Assessment Update (2020) and this motion was carried unanimously. In endorsing this approach all members of the Planning Committee involved on 25/11/2020 have now accepted that there is no capacity for comparison goods to 2035 and beyond. This is now a matter of public record, and makes it an impossibility to consider approving a proposal for 40,000sqft of comparison goods floorspace some two months after accepting there is no capacity for this form of retailing beyond the life of the new emerging plan.

3. In addition to the above I note that Riverside is indicating through their letting agents TDK that the proposed unit is “under offer”, as per the attached. This is despite no tenant being presented by the applicants throughout the processing of this application. It is also noteworthy that they indicate that 21,800sqft is already vacant within the Riverside Centre, as per the attached brochure. From a site visit on 25/11/2020 additional units for DW Sports, Harveys, Starplan are vacant. There would be no logical or rationale justification to entertain additional floorspace, when there is no end operator (No need/specific requirements) and where there is already 21,800sqft of vacant comparison units. Notwithstanding the accepted lack of capacity, impact of 16.6% on Coleraine Town Centre against a vacancy rate of 20% and conflicts with the SPPS and NAP.

To summarise there is no capacity for comparison goods to 2035 and beyond, which has been accepted and endorsed unanimously by all Planning Committee Members, the proposal is contrary to the extant NAP 2016, Coleraine Town Centre has a vacancy rate of 20% and the independent retail consultants indicate an impact of 16.6% and there is a sequentially preferable alternative site in Ballymoney, which was designated as a DOS (BYT03) in NAP 2016, where the alleged jobs and investment would still be realised.

Taking account of all of the matters, the detailed consideration of Planning Officers to refuse is consistent with the SPPS, NAP 2016 and the previous approach of the PAC in respect of proposals at the Riverside. Furthermore there is no need, no capacity and no point of this proposal, other than to try and exert influence on the new Local Development Plan process given the timing of decision.

I have copied in DFI as the revised reasons for refusal now include NAP 2016 and any attempt to permit this proposal would seek to undermine the plan led system and NAP 2016, which would have regional and sub regional impacts. Notwithstanding it would be in complete conflict with the SPPS, which is supposed to apply a town centres first approach.

Perhaps you could please confirm that speaking rights have been granted and that this information has been circulated to members, given that paragraph 2.1 of The Protocol of the Operation of the Planning Committee has been removed.

Kind regards

*Andy Stephens*

Matrix Planning Consultancy



Saba Park

14 Balloo Avenue


Bangor

Co. Down

BT19 7QT

 +44 (0)2891 828375 \ 

 <https://hes32-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=www.matrixplanningconsultancy.com&umid=dc4bbbb7-505f-4cee-b139-7b216b844c2c&auth=89b25e08eb55419b045a269f5553735f0173174a-4fcb4e1659143428f7d3bef8469a9eb127667557>

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**3. MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 23 SEPTEMBER 2020 AND RECONVENED ON 28 OCTOBER 2020**

Minutes previously circulated.

Proposed by Councillor Scott  
Seconded by Councillor Anderson and

**AGREED** – that the Minutes of the Planning Committee meeting held Wednesday 23 September 2020 and reconvened on 28 October 2020 are confirmed as a correct record.

The Chair put the motion to the Committee to vote.  
10 Members voted For; 0 Members voted Against; 1 Member abstained.  
The Chair declared the motion carried.

**4. MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 28 OCTOBER 2020 AT 2PM**

Minutes previously circulated.

Proposed by Councillor Scott  
Seconded by Councillor Anderson and

**AGREED** – that the Minutes of the Planning Committee meeting held Wednesday 28 October 2020 at 2PM are confirmed as a correct record.

The Chair put the motion to the Committee to vote.  
10 Members voted For; 0 Members voted Against; 1 Member Abstained.  
The Chair declared the motion carried.

**5. ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS**

**It was AGREED** – that Objection LA01/2019/0281/F Land at Asda, 1 Ring Road, Coleraine will follow after Council LA01/2019/0915/F 46m SE from Dungiven Castle 145 Main Street, Dungiven.

**6. SCHEDULE OF APPLICATIONS:**

**6.1 Major LA01/2018/1106/F Unit 17 and adjoining land, Riverside Regional Centre, Castleroe Road, Coleraine**

Reports previously circulated, presented by the Development Management and Enforcement Manager via PowerPoint presentation shared on MS Teams.

**App Type:** Full

**Proposal:** Construction of a 40,000 sq ft gross approx (3716 sqm gross approx) retail warehouse unit and an associated 8000 sq ft gross approx (743 sqm gross approx) garden centre to seek a bulky goods permission incorporating alterations and extension to existing Unit 17, along with general ancillary site works.

### **Recommendation**

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 **Refuse** planning permission subject to the reasons set out in section 10.

### **Addendum 1 Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.

### **Addendum 2 Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.

### **Addendum 3 Recommendation (Circulated 24 November 2020)**

That the Committee note the contents of this Addendum and agree with a new recommendation to defer the application to enable the Planning Department to obtain the advice of an independent planning barrister to in turn provide advice to the Planning Committee. This recommendation supersedes that set out in Paragraph 1.1 of the Planning Committee Report.

The Development Management and Enforcement Manager provided a Verbal Addendum as follows:

1. Mr A Stephens of Matrix Planning Consultancy has made a further representation of objection on the application. He comments that timing of the Senior Counsel Opinion on behalf of the applicant is at the last moment. He refers to a High Court judgement *Belfast City Council v The Planning Appeals Commission (2018) NIQB17* which observes that the "ambush" element was that they had insufficient time and opportunity to respond and rectify. This should never have occurred." He observes that the applicant complained that the

Planning Department proposed to remove the application from the Agenda despite this being in response to the applicant's delayed submission. He argues that allowing the application to come forward will provide a clear point of prejudice. Response of the Planning Department is that our new recommendation is to defer the application.

2. Mr A Stephens of Matrix Planning Consultancy has made a further representation of objection on the application. He expresses concern regarding lobbying on the application and states that the employment benefits cannot be quantified with any degree of certainty. He adds that town centre retail has been savaged by COVID 19. He requests that the Northern Area Plan 2016 be added as a reason for refusal and attaches appeals at Riverside Regional Centre which endorses this approach. This request has been reviewed by the Planning Department and it is acknowledged that the appeals concluded that the proposals "would not be in accordance with the Northern Area Plan". The relevant text in the Plan is at p34 in the Plan Strategy & Framework Volume 1 which states "The Plan will seek to ensure that any future development of the Riverside Centre is complementary to, rather than competing with, the town centres, and does not adversely affect the vitality and viability of the latter."

This together with the requirements of Section 45 of the Planning Act (Northern Ireland) 2011 augurs towards amending refusal reason 3 in the event that the Committee resolves to refuse the application (which is not the current recommendation which is to defer the application). In this event, and without prejudice to the current recommendation, refusal reason 3 is amended accordingly:

*"The proposal is contrary to the Northern Area Plan and to Paragraphs 6.279 and 6.291 of the SPPS in that if approved the proposal would have a significant adverse impact on the vitality and viability of Coleraine town centre."*

Alderman Duddy stated the verbal addendum was unacceptable, and Committee is in a similar position as to what had occurred at the last Committee meeting.

The Head of Planning responded, having suggested withdrawing the Item from the Schedule in order that staff may consult and allow third parties to view, she was advised she did not have the power within the Protocol for the Operation of the Planning Committee to undertake this. The Head of Planning referred to Paragraph 2.1 of the Protocol, information received

after the Agenda has been issued. She referred Committee to Addendum 3 recommendation that the Application be deferred.

The Head of Planning referred to a Judicial Review decision on the North West Hotel Development when an objector had advised information had been received at the last minute and had not been allowed by the Planning Committee to have time to consider and the Judge ruled in their favour.

The Head of Planning recommended the Application be deferred to consider information and allow further consultation and discussions on Legal Case Law, ensuring interpretation is correct on the materiality of the planning history of the site.

Alderman Duddy suggested that Mr Stephens be written to, to advise of the contact information for the Local Government Ombudsman's Office, in light of allegations that lobbying had taken place.

The Head of Planning advised correspondence to that affect had been issued to Mr Stephens.

Proposed by Alderman Duddy

Seconded by Alderman Baird

- That Planning Committee amend paragraph 2.1 of the Protocol for The Operation of the Planning Committee with immediate effect; that Planning Committee information received after the agenda issues is circulated to Planning Committee for consideration in advance of its meetings;
- That Planning Committee note the contents of the Addendum and agree with a new recommendation to defer the application to enable the Planning Department to obtain the advice of an independent planning barrister to in turn provide advice to the Planning Committee;
- That Planning Committee receive the Legal Advice sought, one week before the Planning Committee meeting.

The Chair put the motion to the Committee to vote.

11 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion and that to **defer** unanimously carried.

## **6.2 Council LA01/2020/0799/F Bushmills Visitor Information Centre 44 Main Street, Bushmills**

- \* **Alderman S McKillop joined the meeting at 11.08AM during consideration of the Item and did not vote on the application.**

The Local Development Plan Team compliment is 6 out of 7 currently.

- **Publication of Draft Plan Strategy**

The Draft Plan Strategy will not be published in A/W 2020. This is being kept under review. A revised Local Development Plan Timetable will be brought before Members in due course for discussion and agreement.

\* **Councillor C McLaughlin left the meeting at 6.42pm and did not re-join the meeting.**

## **8.2 LDP – Retail Capacity Assessment – Update 2020**

Report, previously circulated, presented by the Development Plan Manager.

### **Background**

Under the provisions of the Strategic Planning Policy Statement (SPPS) and in preparation of its Local Development Plan (LDP), Councils are required to undertake an assessment of the need or capacity for retail and other main town centre uses across the plan area, and to prepare town centre health checks.

Retail capacity work and some aspects of town centre health check work are specialisms within planning, and, therefore, in recognition of the requirement to undertake this work as part of the LDP process, and of the need in relation to the determination of planning applications for retail development within the Borough, the Council appointed two separate consultants back in November 2016 to prepare two separate but related retail pieces of work:

- Nexus Planning - Retail and Leisure Capacity Study; and
- Sproule Consulting - Public and Business Perception Studies.

The Development Plan Manager advised one requirement of SPPS Regional Strategic Objectives for Town Centres & Retailing is to ensure that LDPs and planning decisions are informed by robust and up to date evidence.

SPPS also states that Councils must carry out an assessment of need and capacity for retail.

NEXUS Planning carried out the original CC&G Retail & Leisure Capacity Study on behalf of the Council in 2017. At the same time Sproule Consulting carried out a Business and Public Perception Survey.



Both reports, as agreed with Members, informed the preparation of the Council's LDP Preferred Options Paper (POP) published in 2018.

Given the time lapse since the POP and 2017 Study, the preparation of the next LDP document - the Draft Plan Strategy and a number of recent retail planning applications, it is important to have an up to date and robust evidence base.

The 2020 Retail Assessment Update circulated, which relates only to the retail element of the 2017 study, should be read with the original study. The 2020 update uses updated population and expenditure forecasts and updated planning commitments. It also takes account of the revised notional end date of the LDP (2035).

The summary findings set out at Section 4 of the 2020 update highlight that there is no capacity for comparison goods to 2035 and beyond. There is a small amount of capacity for convenience goods. The figures set out in the update substitute those set out in Section 6 of the original 2017 study.

**It is recommended** that Members accept the Nexus Planning Retail Capacity Assessment Update (2020) to inform the Local Development Plan preparation and the determination of relevant planning applications.

Proposed by Councillor Hunter  
Seconded by Councillor M A McKillop and

**AGREED** - that Planning Committee accept the Nexus Planning Retail Capacity Assessment Update (2020) to inform the Local Development Plan preparation and the determination of relevant planning applications.

The Chair put the motion to the Committee to vote.  
9 Members voted For; 0 Members voted Against; 0 Members Abstained.  
The Chair declared the motion carried unanimously.

### 8.3 DFC – Proposed Listings

Report, previously circulated, presented by the Development Plan Manager.

The Department for Communities (DfC);HED wrote to Council on 23<sup>rd</sup> October 2020 seeking comment (by 4<sup>th</sup> December 2020) on a number of proposed listings within the Borough, under Section 80 (1) of The Planning Act (Northern Ireland).

**RIVERSIDE**  
REGIONAL CENTRE

Sainsbury's

B&Q



pets  
at home

halfords

TO LET

starplan  
elegant bedroom furniture

DW SPORTS  
FITNESS

Harry  
Corry  
INTERIORS

Premier Inn

Dunelm  
mill

£ poundstretcher  
every penny counts

Harveys  
The Furniture Store

b.m.  
home store

TO LET



TO LET

Sainsbury's

COMING SOON



Argos



SUBWAY

Currys



Jet Centre

To Let

Prime Retail Units  
Riverside Retail Park, Coleraine

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LONDONDERRY

JET CENTRE  
OMNIPLEX

LIDL

FILLING STATION

Currys  
Argos

Sainsbury's

UNIT 4

Harveys

bm

Harry  
Corry

DIY  
services

halfords

pets at home

B&Q

UNDER OFFER

UNIT 22

1,500  
sq ft

new  
retailer

Dunelm  
mill

Dunelm  
mill

UNIT 13

starplan

Sainsbury's  
FILLING STATION

COMING SOON  
Tim Hortons

FitnessFirst

new  
retailer

new  
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Unit	Sq Ft	Sq M
Unit 4	10,000 sq ft	(929 sq m)
Unit 13	7,800 sq ft	(725 sq m)
Unit 22	4,000 sq ft	(372 sq m)

## FURTHER INFORMATION

Contact: Mark Thallon  
Tel: 028 9089 4066  
Mobile: 07802 520 008  
Email: mark.thallon@tdkproperty.com

# To Let Prime Retail Units Riverside Retail Park, Coleraine

TDK for themselves and for the Vendors or Lessors of the property whose agents they are give notice that; i) these particulars are given without responsibility of TDK or the Vendors or Lessors as a general outline only, for the guidance of prospective purchasers or tenants, and do not constitute the whole or any part of an offer or contract; ii) TDK cannot guarantee the accuracy of any description, dimensions, references to condition, necessary permissions for use and occupation and other details contained herein and any prospective purchasers or tenants should not rely on them as statements or representations of fact but must satisfy themselves by inspection or otherwise as to the accuracy of each of them; iii) no employee of TDK has any authority to make or give any representation or warranty or enter into any contract whatsoever in relation to the property; iv) VAT may be payable on the purchase price and/or rent, all figures are quoted exclusive of VAT, intending purchasers or lessees must satisfy themselves as to the applicable VAT position, if necessary by taking appropriate professional advice; v) TDK will not be liable, in negligence or otherwise, for any loss arising from the use of these particulars.

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**3. MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 23 SEPTEMBER 2020 AND RECONVENED ON 28 OCTOBER 2020**

Minutes previously circulated.

Proposed by Councillor Scott  
Seconded by Councillor Anderson and

**AGREED** – that the Minutes of the Planning Committee meeting held Wednesday 23 September 2020 and reconvened on 28 October 2020 are confirmed as a correct record.

The Chair put the motion to the Committee to vote.  
10 Members voted For; 0 Members voted Against; 1 Member abstained.  
The Chair declared the motion carried.

**4. MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 28 OCTOBER 2020 AT 2PM**

Minutes previously circulated.

Proposed by Councillor Scott  
Seconded by Councillor Anderson and

**AGREED** – that the Minutes of the Planning Committee meeting held Wednesday 28 October 2020 at 2PM are confirmed as a correct record.

The Chair put the motion to the Committee to vote.  
10 Members voted For; 0 Members voted Against; 1 Member Abstained.  
The Chair declared the motion carried.

**5. ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS**

**It was AGREED** – that Objection LA01/2019/0281/F Land at Asda, 1 Ring Road, Coleraine will follow after Council LA01/2019/0915/F 46m SE from Dungiven Castle 145 Main Street, Dungiven.

**6. SCHEDULE OF APPLICATIONS:**

**6.1 Major LA01/2018/1106/F Unit 17 and adjoining land, Riverside Regional Centre, Castleroe Road, Coleraine**

Reports previously circulated, presented by the Development Management and Enforcement Manager via PowerPoint presentation shared on MS Teams.

**App Type:** Full

**Proposal:** Construction of a 40,000 sq ft gross approx (3716 sqm gross approx) retail warehouse unit and an associated 8000 sq ft gross approx (743 sqm gross approx) garden centre to seek a bulky goods permission incorporating alterations and extension to existing Unit 17, along with general ancillary site works.

### **Recommendation**

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 **Refuse** planning permission subject to the reasons set out in section 10.

### **Addendum 1 Recommendation**

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The Development Management and Enforcement Manager provided a Verbal Addendum as follows:

1. Mr A Stephens of Matrix Planning Consultancy has made a further representation of objection on the application. He comments that timing of the Senior Counsel Opinion on behalf of the applicant is at the last moment. He refers to a High Court judgement *Belfast City Council v The Planning Appeals Commission (2018) NIQB17* which observes that the "ambush" element was that they had insufficient time and opportunity to respond and rectify. This should never have occurred." He observes that the applicant complained that the

Planning Department proposed to remove the application from the Agenda despite this being in response to the applicant's delayed submission. He argues that allowing the application to come forward will provide a clear point of prejudice. Response of the Planning Department is that our new recommendation is to defer the application.

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This together with the requirements of Section 45 of the Planning Act (Northern Ireland) 2011 augurs towards amending refusal reason 3 in the event that the Committee resolves to refuse the application (which is not the current recommendation which is to defer the application). In this event, and without prejudice to the current recommendation, refusal reason 3 is amended accordingly:

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Alderman Duddy stated the verbal addendum was unacceptable, and Committee is in a similar position as to what had occurred at the last Committee meeting.

The Head of Planning responded, having suggested withdrawing the Item from the Schedule in order that staff may consult and allow third parties to view, she was advised she did not have the power within the Protocol for the Operation of the Planning Committee to undertake this. The Head of Planning referred to Paragraph 2.1 of the Protocol, information received

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Proposed by Alderman Duddy

Seconded by Alderman Baird

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The Chair put the motion to the Committee to vote.

11 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion and that to **defer** unanimously carried.

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- **Publication of Draft Plan Strategy**

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\* **Councillor C McLaughlin left the meeting at 6.42pm and did not re-join the meeting.**

## **8.2 LDP – Retail Capacity Assessment – Update 2020**

Report, previously circulated, presented by the Development Plan Manager.

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The summary findings set out at Section 4 of the 2020 update highlight that there is no capacity for comparison goods to 2035 and beyond. There is a small amount of capacity for convenience goods. The figures set out in the update substitute those set out in Section 6 of the original 2017 study.

**It is recommended** that Members accept the Nexus Planning Retail Capacity Assessment Update (2020) to inform the Local Development Plan preparation and the determination of relevant planning applications.

Proposed by Councillor Hunter  
Seconded by Councillor M A McKillop and

**AGREED** - that Planning Committee accept the Nexus Planning Retail Capacity Assessment Update (2020) to inform the Local Development Plan preparation and the determination of relevant planning applications.

The Chair put the motion to the Committee to vote.  
9 Members voted For; 0 Members voted Against; 0 Members Abstained.  
The Chair declared the motion carried unanimously.

### 8.3 DFC – Proposed Listings

Report, previously circulated, presented by the Development Plan Manager.

The Department for Communities (DfC);HED wrote to Council on 23<sup>rd</sup> October 2020 seeking comment (by 4<sup>th</sup> December 2020) on a number of proposed listings within the Borough, under Section 80 (1) of The Planning Act (Northern Ireland).

**RIVERSIDE**  
REGIONAL CENTRE

Sainsbury's

B&Q



pets  
at home

halfords

TO LET

starplan  
elegant bedroom furniture

DW SPORTS  
FITNESS

Harry  
Corry  
INTERIORS

Premier Inn

Dunelm  
mill

£ poundstretcher  
every penny counts

Harveys  
The Furniture Store

b.m.  
home store

TO LET



TO LET

Sainsbury's

COMING SOON



SUBWAY

Argos

Currys



Jet Centre

To Let

Prime Retail Units  
Riverside Retail Park, Coleraine

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FILLING STATION

Currys  
Argos

Sainsbury's

INDUS VALLEY  
CHARCO  
McDonald's  
COMING SOON  
Tim Hortons  
FitnessFirst

UNDER OFFER

UNIT 22

Dunelm  
mill

Dunelm  
mill

UNIT 13  
starplan

UNIT 4

Harveys  
bm

Harry  
Corry

halfords  
pets at home

B&Q

Sainsbury's  
FILLING STATION

BELFAST  
SANDLEFORD BRIDGE

Unit	Sq Ft	Sq M
Unit 4	10,000 sq ft	(929 sq m)
Unit 13	7,800 sq ft	(725 sq m)
Unit 22	4,000 sq ft	(372 sq m)

### FURTHER INFORMATION

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## To Let Prime Retail Units Riverside Retail Park, Coleraine

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