

Item D

**35 Harbour Road, Ballintoy, Co.
Antrim BT54 6NA.**

LA01/2015/0205/F

Full Application

27th January 2016

<u>No:</u>	LA01/2015/0205/F	<u>Ward:</u>	Kinbane
<u>App Type:</u>	Full Application		
<u>Address:</u>	35 Harbour Road Ballintoy Co. Antrim BT54 6NA.		
<u>Proposal:</u>	Replacement Dwelling and Associated Site Works.		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	28.05.2015
<u>Listed Building Grade:</u>	N/A		
Agent:	Lavery Architecture, 63a Churchfield Road, Ballycastle BT54 6PX		
Applicant:	Rev. Brian Daly PP, Parochial House, 15 Moyle Road Ballycastle		
Objections:	7	Petitions of Objection:	0
Support:	0	Petitions of Support:	0

Drawings and any additional information are available to view on the Planning Portal- 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 section 7 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in section 10.

2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA

- 2.1 The application site is located at No. 35 Harbour Road, Ballintoy. The site is rectangular in shape with land sloping downwards in a northern direction.
- 2.2 The site comprises a small detached vacant bungalow finished in cream render with a pitched slate roof. The dwelling has a flat roofed side projection and a front conservatory. A garage and store are located north of the dwelling. The site has not been maintained with rough grassland throughout and there are

no defined boundary treatments. The site is accessed along a short lane from Harbour Road and has a cliff edge location.

- 2.3 The site is within the countryside and the Causeway Coast AONB and the Ballintoy Harbour LLPA. The site is within a small cluster of buildings close to the cliff face overlooking Ballintoy Harbour. The cluster is dominated by the Old Coast Guard Station which consists of 4 cottages south of the dwelling. To the rear of the Coast Guard Station is a large farm consisting of mixed building types.

3 RELEVANT HISTORY

None

4 THE APPLICATION

- 4.1 Full planning permission is sought for a replacement dwelling and associated site works.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: (7) Seven** Objectors raised 23 objections to the proposal

The points raised by the objectors include:

Drawings did not show the windows of the tower block of Coast Guard Cottages and would be affected by the proposal.

Loss of view from Coast Guard Cottages

Large footprint for the site

Positioning of replacement dwelling within the site

Dominant

Scale & Massing

Design out of context with area

Impact on AONB

Significant views of the site are available from several coastal locations resulting in a detrimental impact on the landscape

Detract from Napoleonic lookout & Coast Guard Station

Adverse visual impact of the clifftop from every direction – from Carrick-a-rede; Harbour Road; Ballintoy Harbour; and sea

Prominent feature in the landscape

Coast Guard Station is subject to a listing query and should be considered in this context
Overlooking/loss of privacy
Loss of privacy of No. 33 in particular bedroom/living room
Car parking/Increased traffic
Impact of additional traffic/plant & machinery on the access road
The 1.8m high balcony screen

Internal:

5.2 **Transport NI:** No objection subject to conditions.

Environmental Health: No objections.

NIEA WMU: No objection subject to informatives.

NIEA Historic Monuments Unit: No objection

NIEA Historic Buildings Unit. No objection.

NIEA Coastal Development: No objection.

6 MATERIAL CONSIDERATIONS

6.1 Section 45 of the Planning Act (Northern Ireland) 2011 states that, “where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.”

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 both a new local plan strategy is adopted councils will apply specified retained operational policies.

6.4 Due weight should be given to the relevant policies in the development plan.

- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

PPS 2 Natural Heritage

PPS 3 Access, Movement and Parking

PPS 6 Planning, Archaeology and the Built Environment.

PPS 21 Sustainable Development in the Countryside

Guidance

Causeway Coast AONB Management Plan

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: the principle of the development in this location; visual integration, impact on neighbouring residential properties and, impact on natural or built heritage.

Principle of development

- 8.2 The principle of this development proposed must be considered having regard to the SPPS and PPS policy documents specified above and any other material considerations.
- 8.3 The SPPS was published 28 September 2015. The accompanying Ministerial Statement stated that the provisions of the SPPS are material to all decisions on individual planning applications and appeals.
- 8.4 Paragraph 6.73 bullet point 2 of the SPPS in relation to replacement dwellings echoes policy CTY 3 of PPS 21.
- 8.5 Policy CTY 3 of PPS21 is the relevant policy context for such proposals and states that planning permission will be granted

for a replacement dwelling where “the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact”.

- 8.6 A vacant bungalow is present on the application site with all its wall and roof intact. This replacement opportunity meets with this part of the policy and is acceptable in principle.
- 8.7 All replacement dwellings must also comply with a number of criteria addressed in order below.
- 8.8 The replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

Scale and Design

- 8.9 The replacement dwelling is sited within the established curtilage and on the footprint of the existing building. This criteria has been met.
- 8.10 The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.
- 8.11 The proposed replacement is 7.4m wide x 11.2m long x 5.8m high. The dimensions of the existing dwelling for comparison are approx. 6.4m wide x 8.2m long x 4.4m high. There is also a partial subterranean element slightly off set to the rear of the proposed dwelling and is built in using the topography of the site. The roof of this acts as a patio to the living space of the dwelling. The replacement dwelling is positioned on the same footprint of the existing dwelling albeit larger and there is an increase of 1m in width, 3m in length and 1.4m in height. It is acknowledged the replacement dwelling is larger than the current footprint but it is unreasonable to expect a like for like replacement in this context given the small size of the existing dwelling. The replacement dwelling is of a size appropriate for modern living and makes use of existing site contours with the presence of a basement. While the visual impact of the

replacement dwelling will be more than the existing dwelling, it is not considered to be significantly greater. The replacement dwelling is considered to visually integrate given the acceptable scale and massing as well as respecting a similar orientation to the existing building.

- 8.12 The design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness
- 8.13 The design is contemporary with large glazing areas and a balcony in the rear elevation to make use of coastal views. The front elevation is more traditional in character with a small entrance porch and good solid to void ratios. The design of the dwelling is acceptable as it is a modern interpretation of traditional form and is satisfactory in terms of width, depth and height. Windows overall have vertical emphasis and chimneys are expressed on the ridge. This development in terms of design is not considered out of context given the variety of designs and sizes of existing dwellings along Harbour Road.
- 8.14 The replacement dwelling is to be finished in smooth render painted white for walls as well as natural stone; natural slate roof; black rainwater goods; black UPVC windows and a hardwood painted front door. Velux windows are to be conservation type to meet requirements of NIEA: HBU. Proposed materials/finishes are acceptable in terms of traditional rural design guides.
- 8.15 All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality
- 8.16 A treatment plant is proposed north of the replacement dwelling and consent to discharge will be required separately. Environmental Health and NIEA: Water Management Unit have no objections.

Access

- 8.17 Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic

8.18 The proposal makes use of an existing shared laneway from Harbour Road. No alterations are proposed to this shared laneway. Parking for the new dwelling is located on a new gravel driveway south of the dwelling. Objections have been raised in relation to increased traffic/car parking and the impact on this shared access road. It is important to note the application site already comprises an existing dwelling and access so a replacement dwelling with associated parking is acceptable in principle. TransportNI was consulted in relation to this application but offer no objections as the existing dwelling to be replaced could be made habitable with minor works. The existing access is sub-standard and should be improved to provide acceptable geometry.

Integration and rural character

8.19 Policy CTY 13 – Integration and Design of Buildings in the Countryside and Policy CTY 14 – Rural Character are also applicable in the assessment of this proposal.

8.20 Permission will be granted where the proposal can be visually integrated into the surrounding landscape and it is of an appropriate design (CTY 13). Permission will be granted where the proposed building will not cause a detrimental change to, or further erode the rural character of an area (CTY 14.)

8.21 There are several partial views of the application site primarily from Harbour Road travelling north and south. The rear of the property would be the most prominent in that it is located on the coastal cliff edge. Views of the existing dwelling are difficult to obtain due to its size and proximity to No. 33 Harbour Road which at certain viewpoints acts as a screen. However, the replacement dwelling due to the increase in size may be viewed from Harbour Road at certain points. It is not considered, due to the topography and existing built development, that the proposed dwelling will dominate the landscape. The proposal will cluster with the existing group of buildings and should not significantly detract from visual amenity or the character and appearance of the Ballintoy LLPA or Causeway Coast AONB.

8.22 The proposal can be visually integrated into the surrounding landscape given the appropriate scale and massing of the replacement dwelling and its location on the existing curtilage of

the dwelling to be replaced. The design is appropriate as considered above and is not considered out of context in the immediate surroundings. The proposed replacement dwelling should not be unduly prominent in the landscape although public views are available; nor will it result in build-up given it is a replacement dwelling; and it is not considered to damage rural character.

Built and Natural Heritage

- 8.23 Policy BH2 of PPS 6 is applicable as the proposal is located within the buffer zone of archaeological sites and monuments so consultation was carried out with NIEA. Their response indicated no archaeological concerns regarding this proposal.
- 8.24 Policy BH 11 – Development affecting the setting of a Listed Building. The application site itself is not a listed building but it is in proximity to Bendhu, No. 49 Harbour Road, Ballintoy which is Grade BI listed. To fully assess the potential impact on this listed building, existing and proposed sections showing the proposal in the context of the listed building was submitted. NIEA: HBU have no objections to the proposal so the replacement dwelling is appropriate in terms of scale, height, massing and alignment and therefore does not impact upon the setting of this listed building.
- 8.25 NIEA: HBU advise that the Coast Guard Cottages (south of the site) are subject to a Listing Query which is on-going. Council are to consider the potential impact of the replacement dwelling on the setting of this coastal grouping. Objectors have raised this potential listing and consider the replacement dwelling to impact upon its setting.
- 8.26 The replacement dwelling is considered to be acceptable in size. Views of the Coast Guard Cottages from the south will not be affected as the replacement dwelling is positioned north of this grouping. The Coast Guard Cottages will be viewed in conjunction with the replacement dwelling at certain viewpoints along Harbour Road but views are more intermittent than open and sustained. Coast Guard Cottages and the replacement dwelling will not always be inter-visible together given the sharp blends along Harbour Road and the topography of the land/cliff. NIEA: HBU did not indicate any problems with the current

design/location/size of the replacement dwelling if the Coast Guard Cottages were to become listed. Consequently the development is not considered to significantly impact on the setting of this coastal grouping.

- 8.27 Policy NH 6 – Areas of Outstanding Natural Beauty of PPS 2. Proposals should be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. Proposals should respect local architectural styles and patterns as well as local materials, designs and colour. The proposal does not offend this policy as the development is acceptable in terms of scale, massing, design and finish and will not significantly detract from the character and appearance of the area as considered in detail above.

Other Matters

- 8.28 Objectors have raised the loss of view from Coast Guard Cottages due to the development. Paragraph 2.3 of the SPPS in defining the purpose of planning outlines that it does not exist to protect the private interests of one person against the activities of another. It is whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. A private view is considered to a private interest.
- 8.29 Objections in relation to the impact on residential amenity from the replacement dwelling on the Coast Guard Cottages have been highlighted. The proposal should not result in unacceptable overshadowing/loss of light to these cottages given the site orientation (north facing); separation distances; and the scale and massing of the dwelling. The proposal should not result in overlooking of these cottages given the front elevation only has ground floor windows directly facing these properties. There are no perceived overlooking issues from proposed velux windows.
- 8.30 No. 33 Harbour Road has expressed objections in relation to residential amenity. This property is located west of the site and as a result may experience some overshadowing/loss of light during the morning time due to the site orientation given the increased size of the replacement dwelling. It is not considered to be unreasonable given the separation distance of

2m and the general positioning of the dwelling on the existing footprint. The proposal is not considered to be overly dominant with a gable depth of 7.4m and ridge height of 6m.

- 8.31 The proposal will not result in adverse overlooking of No. 33 Harbour Road. Windows in the gable directly facing this property are for a kitchen/dining room at ground floor level and a bedroom window at first floor level. The ground floor window and bedroom window are to be finished in obscure glass which is to be conditioned to ensure retention so no overlooking will occur.
- 8.32 A 1.8m high screen of opaque glass, is proposed along the side of the proposed balcony adjacent to No 33 to prevent direct overlooking. This amendment was sought to limit overlooking but it is pertinent to note that the garden to the rear of the existing dwelling already overlooks this property given existing levels and lack of boundary treatments. While coastal views from No. 33 Harbour Road may be limited by this development, private views cannot be protected against the activities of others as explored earlier.

9 CONCLUSION

- 9.1 The proposed development is considered acceptable in this location having regard to the Area Plan and other material considerations. The development is an appropriate use of the land and is acceptable in terms of its layout and appearance. There would be no significant detriment to the setting of listed buildings or neighbouring amenity. All other matters can be secured by planning condition. Approval is recommended.

10 CONDITIONS/ INFORMATIVES

10.1 Regulatory Conditions:

1. As required by Section 61 the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, hatched green on drawing No. 02 date stamped 27th May 2015 is demolished, all rubble and foundations removed and the site restored in accordance with the details on the approved plans.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

3. The proposed planting indicated on Drawing No. 03/1 date stamped 16th October 2015 shall be undertaken during the first available planting season after the occupation of the dwelling hereby approved.

Reason: In the interest of visual amenity.

4. The ground floor gable window and upper floor bedroom in "Side elevation 2" drawing no 04/2, shall both be glazed with frosted glass and permanently retained as such.

Reason: In the interests of residential amenity.

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Planning Authority, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation.

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

6. The 1.8m high screen opaque glass balustrading associated with the ground floor balcony shall be erected in accordance with Drawing No. 04/2 date stamped 26th October 2015 before occupation of the dwelling hereby approved and permanently retained as such.

Reason: In the interests of residential amenity.

Informatives

1. 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.
2. 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.
3. 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.
4. The applicant's attention is drawn to the attached information note from Northern Ireland Electricity and Northern Ireland Water.
5. The Department for Regional Development's TransportNI has pointed out that the existing vehicular access to the dwelling is sub-standard and that, in your interests and that of other road users, measures should be taken to provide acceptable geometry.
6. Environmental Health advise the following:

Any septic tank or packaged waste water treatment unit should have adequate capacity for the no of proposed dwellings it is to service.

Any septic tank or packaged waste water treatment unit should be constructed in accordance with BSEN 12566.

The septic tank / packaged waste water treatment unit and drainage field should be installed in accordance with BS6297:2007.

A minimum separation distance of 15m is recommended between the wastewater unit and nearest habitable dwelling. Discharge must not be within 50m of any potable water supply.

A consent to discharge effluent must be obtained from Northern Ireland Environment Agency, as required by The Water (Northern Ireland) Order 1999 this may involve a percolation test. Application forms and further information is available from Northern Ireland Environment Agency, Water Management Unit. Tel No: 028 9262 3181, Fax: 028 9262 3120, E-mail: WaterInfo@doeni.gov.uk.

"Noise from construction activities should –

(a) not exceed 75 dB LAeq, 1hr between 07.00 hours and 19.00 hours on Monday to Fridays, or 75 dB LAeq, 1hr between 08.00 hours and 13.00 on Saturdays, when measured at any point 1 metre from any façade of any residential accommodation, and

(b) not exceed 65 dB LAeq, 1hr between 19.00 hours and 22.00 hours on Monday to Fridays, or 13.00 hours to 22.00 hours on Saturdays when measured at any point 1 metre from any façade of any residential accommodation, and

(c) not be audible between 22.00 hours and 07.00 hours on Monday to Fridays, before 08.00 hours or after 22:00 hours on Saturdays, or at any time on Sundays, at the boundary of any residential accommodation. (As a guide the total level (ambient plus construction) shall not exceed the pre-construction ambient level by more than 1 dB(A). This will not allow substantial noise producing construction activities but other “quiet” activities may be possible). Routine construction and demolition work which is likely to produce noise sufficient to cause annoyance will not normally be permitted between 22.00 hours and 07.00 hours.”

All plant and equipment including vehicles used in connection with the development should be so situated, operated and maintained to prevent the transmission of noise and vibration to nearby residential properties.

If during the proposed development, any ground contamination is encountered then all works on the site should cease. The Environmental Health Section of the Causeway Coast and Glens Borough Council should be informed and sufficient information to assess potential risks arising from the former use of the land should be submitted. Any necessary mitigation/remediation measures should be clearly specified. The above work should be undertaken by a suitably competent person/s and in accordance with current government guidance. A copy of "Council Guidance for interested Parties on Development on Land which might be affected by Contamination" (Final Version March 2006) can be obtained if required.

There is potential that Asbestos containing Materials is present in or on the derelict building. The applicant is advised that prior to any works being carried out that an asbestos survey is carried out, by a suitably competent person/s. All identified Asbestos containing material must be removed and disposed of in full compliance with all health and safety and waste management legislative requirements. A copy of the results of the Asbestos survey and any subsequent documentation including: waste classification, proposed removal/disposal measures and validation waste management documentation should be forwarded to the

Environmental Health Section of the Causeway Coast and Glens Borough Council.

7. NIEA: Water Management Unit advise the following:

No development should take place on-site until the method of sewage disposal has been agreed in writing with NIW or a consent to discharge has been granted to ensure a practical solution to sewage disposal is possible at this site.

The building shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system should also be designed to minimise the risk of wrongly connecting the sewage system to the rain-water drainage system, once the building is occupied.

The storm drainage of the site, during site clearance, construction and operational phases of the development, should be designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways.

Construction of SuDS should comply with the design and construction standards as set out in the Construction Industry Research and Information Association (CIRIA) manual C697. A separate site handbook (C698) for the construction of SuDS has also been produced by CIRIA.

The applicant should comply with all the relevant Pollution Prevention Guidelines (PPGs) in order to minimise the impact of the project on the environment, paying particular attention to:

PPG 01 - General guide to pollution prevention

PPG 02 - Above ground oil storage

PPG 04 - Disposal of sewage where no foul sewer is available

PPG 05 - Works in, near or liable to affect watercourses

PPG 06 - Working at demolition and construction sites

Compliance with the advice in PPG 05 and 06 will help to minimise the impact of the site clearance and construction phases of the project on the environment. These PPGs can be accessed by visiting the NetRegs website at:-

<http://search.netregs.org.uk/search?w=pollution%20prevention%20guide%20lines>

General advice and guidance on private water supplies can be obtained from the DWI's information leaflet 'Is your private water supply safe?'

<http://www.doeni.gov.uk/niea/privatewatersuppliesleaflet.pdf>

More detailed guidance can be obtained from the private water supplies technical manual at:

<http://www.privatewatersupplies.gov.uk/>

Borehole construction should be undertaken by a competent contractor taking account of best practice. Guidance on best practice can be accessed by the Institute of Geologists of Ireland (IGI) at:

<http://www.igi.ie/publications/codes-guidelines.htm>

Environment Agency (EA) Guidance on Rainwater Harvesting Guidance can be obtained from:

<http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/geho1110bten-e-e.pdf>

Further information and an application form for a water abstraction and impoundment licence can be downloaded from NIEA's website at:

http://www.doeni.gov.uk/niea/waterhome/water_resources/abstraction/application_information.htm.

It is important to note that applications for both an abstraction/impoundment licence and a discharge consent take up to 4 months to process.

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

8. NIEA: Coastal Development advise the following:

Schedule 5 Species – Wildlife Order

Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to national marine protected species.

AND

-Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks.

-It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

-Under Article 13 of the Wildlife (Northern Ireland) Order 1985 (as amended) it is an offence to sell or transport any Schedule 7 animal dead or alive at any time.

-Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

-If there is evidence of Schedule 5 animals listed above at the site, all works must cease immediately and further advice must be sought from DOE Marine Environment Division [Klondyke Building, Cromac Avenue, Belfast BT7 2JA].

-Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

European Protected Species

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in

Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species: *Caretta caretta*, *Cheloniemydas*, *Lepidochelys kempii*, *Eretmochelys imbricata* and *Dermochelys coriacea*.

(1) It is also an offence to;

(a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

(b) deliberately to disturb such an animal in such a way as to be likely to;

(i) affect the local distribution or abundance of the species to which it belongs;

(ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or

(iii) impair its ability to hibernate or migrate;

(c) deliberately take or destroy the eggs of such an animal;

(d) deliberately obstruct access to a breeding site or resting place of such an animal; or

(e) damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence for any person;

(a) to have in his possession or control,

(b) to transport,

(c) to sell or exchange, or

(d) to offer for sale or exchange,

any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DOE Marine Environment Division [Klondyke Building, Cromac Avenue, Belfast, BT7 2JA].

Under this legislation a licence may be required for any operations which might impact on protected species.

Marine Licensing

The applicant should be made aware that all construction or deposition works below the Mean High Water Spring Tide (MHWST) mark are subject to licensing under the Marine and Coastal Access Act 2009. If any elements of the construction in this proposal, for example the construction of beach access i.e. steps, slipways or pontoons/jetties, may cross the intertidal area below the MHWST mark, contact must be made with the Marine Licensing Team, DOE Marine Environment Division, 2nd Floor, Klondyke Building, Gasworks Business Park, Cromac Avenue, Belfast, BT7 2JA, Tel: 028 9056 9247 to apply for a Marine Construction Licence.

The applicant should be aware that it is an offence under the Marine and Coastal Access Act 2009 to carry out a licensable marine activity except in accordance with a marine licence granted by the DOE Marine Environment Division. Conviction of such an offence may incur a fine of up to £50,000 and/or two years imprisonment.

