

# LDP-PS-REP-34

RE: DERRY CITY &  
STRABANE DISTRICT  
COUNCIL;  
LOCAL DEVELOPMENT  
PLAN 2032  
DRAFT PLAN STRATEGY



## Representations to Draft Plan Strategy

ON BEHALF OF

Mr Henderson



AUTHOR

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**1.0 Summary.**

- 1.1 Designation SETT 2 – Development within Settlement Development Limits
- 1.2 Designation SETT2 is **unsound** as the policy fails Soundness Tests of CE2 and CE4 – Coherence and Effectiveness.
- 1.3 The policy is not founded on a robust evidence basis which explains the rationale in respect to the nil provision of any zoned social housing land or net **additional social dwellings in Newbuildings.**
- 1.4 **We recommend that a robust, up to date assessment of the urban footprint is undertaken to ensure the suitability and availability of sites to facilitate the development ambitions of the Council.**
- 1.5 The proposed **Strategy** is unrealistic and inappropriate, has not properly considered the relevant **alternatives** and it is not based on a relevant evidence base.
- 1.6 The proposed **Strategy** has limited flexibility and it is not robust even to deal with changing **circumstances.**
- 1.7 In order to make the Plan Strategy sound, the DPD needs to give consideration to extending the exiting settlement limit of Newbuildings to meet the social housing need, which otherwise may not be accommodated.

**2.0 Amplification.**

- 2.1 Designation SETT 2 states each settlement in the settlement hierarchy will have a defined development limit, beyond which there will be a presumption against further urban development (subject to development in accordance with the other relevant policies.)
- 2.2 (The current development limits in the DAP 2011 and SAP 2001 will remain in place and continue to guide development until they are reviewed and adopted in the LPP).
- 2.3 The Draft LDP states at Paragraph 16.14 that most of the District's settlements have sufficient land to meet their housing requirement up to 2030. The LDP will seek to manage the District's housing zonings by:

*a. Zoning (by defining and refining) the committed housing land and prioritising sites, using phasing to focus on early delivery, in the city and towns;*

*b. Not zoning additional land for housing generally;*

*c. Identifying additional housing land on brownfield sites and otherwise in sustainable, accessible and central locations;*

*d. zoning additional housing lands only in an exceptional circumstance, where a specifically identified local need, and lack of alternative lands, is robustly evidenced. These sites should also be sustainable, accessible and central locations as far as possible;*

*e. Within villages and small settlements, identify and manage the priority housing areas for early delivery, at appropriate density levels;*

*f. Managing the amount, type and location of dwellings outside of settlements through Policies HOU 18 to HOU 26; and*

*g. By actively monitoring the amount, type and location of all dwellings being approved and implemented, with a view to revising the LDP zonings or policies so as to ensure that adequate housing is actually being delivered.*

2.4 In terms of this submission Criteria d is particularly important. Criteria d states:-

**d: Zoning additional housing lands only in an exceptional circumstance, where a specifically identified local need and lack of alternative lands, is robustly evidenced. These sites should also be sustainable, accessible and central locations as far as possible.**

2.5 Criteria d identifies exceptional circumstances for zoning additional housing lands where there is a specific local need and a lack of alternative lands. We believe that these exceptional circumstances exist in Newbuildings in terms of a specific social housing need and a lack of alternative lands.

We consider these two material factors below.

### **3.0 Local Housing Need.**

3.1 This submission is based on the premise that there is a site specific need for more social housing generally in the Waterside area and specifically in the Newbuildings area.

3.2 The Derry City and Strabane Housing Investment Plan 2019-23 (Appendix MKA 1) identifies a significant general social housing need in the Waterside area, namely:-

**Waterside 1 - 150**

**Waterside 2 - 129**

**Waterside 3 - 168**

**Total - 447**

- 3.3 The Derry City and Strabane Housing Investment Plan 2019-23 also identifies a social housing need for 4 social housing units in Newbuildings up until 2023.
- 3.4 There is also likely to be a significant social housing need in Newbuildings over the draft LDP period from 2023 to 2032.
- 3.5 Newbuildings can make a significant contribution to meeting the social housing need in the Waterside considering that many of the housing zonings in the Waterside have already been built out or the permissions have no conditions requiring the provision of social housing development.
- 3.6 This approach is not without precedent. We are aware that the Council and the NIHE have approved social housing applications in Culmore Village where there is no social housing need but which meets the social housing need in the Cityside area of the City.
- 4.0 Alternative Lands in Newbuildings.**
- 4.1 Policy SETT2 is not founded on a robust evidence basis as it has not considered the various planning permissions for residential development on the zoned and white land sites in Newbuildings.
- 4.2 The urban capacity analysis does not vigorously assess the potential of each site to make a meaningful contribution to housing within the Council area. There is no assessment of constraints or site specific issues which may impact on the delivery of these sites; suitability and availability are key considerations. The question as to whether new lands are required can only be fully answered having completed a robust urban capacity analysis of sites (zoned and windfall) and consideration given to infrastructure constraints.
- 4.3 Our examination of these planning permissions in Newbuildings indicates that none of these permissions requires any provision of social housing.
- 4.4 A plan showing these sites is attached at **Appendix MKA 2.**
- 4.5 **Site 1.**  
Lands immediately to east of Primity Crescent, Primity Point and Silverbrook Park, Newbuildings
- A/2004/0462/F – 166 units approved in 2007.
  - A/2010/0489/f – 155 units refused and dismissed at appeal in 2018 (2017/A0042) due to drainage issues.

- Appellants tried to argue that a material start was made on the previous application and therefore a fallback position had been established. Commissioner disagreed and dismissed appeal.
- There is issues over whether the development has been implemented. Even if has been implemented, there are no requirements to provide any social housing. (Appendix MKA 3).

#### 4.6 Site 2.

This is an existing private housing development at Manor Hill, Newbuildings.

- Planning permission was granted for this development by application -A/2001/1340/F.
- The housing development is currently ongoing.
- There are no planning conditions/agreements requiring the provision of social housing.

(Appendix MKA 4)

#### 4.7 Site 3.

This is an ongoing private housing development at Gortin Manor.

- Planning permission granted for this development at A/2008/0005/F.
- Development now almost entirely complete.
- There are no planning conditions/agreements on this permission requiring the provision of social housing.

(Appendix MKA 5)

#### 4.8 Site 4.

Stoneypath, Newbuildings

- An existing private housing development which is now complete.

#### 4.9 Site 5.

Former IAWS Site at junction of Victoria Road and Woodside Road

- LA11/2016/0753/O – Outline planning permission - 81 units approved in 2017.
- There are no planning conditions/agreements on this permission requiring the provision of social housing.

- LA11/2019/0007/RM – current application for 71 units – no social housing included.  
Amended layout of outline application

(Appendix **MKA 6**).

- 4.10 Our analysis of the various planning permissions indicates that none of these planning permissions has any requirement within it to provide social or affordable housing on this housing zoning.
- 4.11 These permissions indicate that while there are significant areas of undeveloped zoned housing land or “white land” with planning permission for residential development within Newbuildings there is no legal requirement on these extant permissions to provide any social or affordable housing.
- 4.12 In these circumstances we believe it is appropriate for **Criteria d** to be applied and there is clearly an exceptional need for additional housing lands to be zoned within the Newbuildings area.
- 4.13 We believe that these particular circumstances in Newbuildings are exceptional and additional land needs to be brought into the settlement and zoned to accommodate this identified social housing need.
- 4.14 It is important when reviewing the effectiveness and delivery of its housing land supply the potential of sites which can be brought forward quickly is recognized by the Council. In this context we provide details of the Henderson lands at Gortinure/Woodside Road, Newbuildings.

## **5.0 Site Specific Considerations.**

- 5.1 In the context of the strategic representations set out above, the LDP, might in future, consider the suitability of the Henderson lands, situated at the junction of the Gortinure Road/Woodside Road, Newbuildings.
- 5.2 These lands already adjoin the existing settlement development limit of Newbuildings on two sides, to the south at Gortinure Road and to the west at Woodside Road. We attach a number of plans and maps to identify the site at **Appendix MKA 7**.
- 5.3 The subject site is a natural extension of the existing settlement, it lies into the settlement and it is adjoined by built development on two sides. The subject site measures approximately 10 acres, is low lying and naturally falls into the settlement with mature hedgerows defining the various boundaries.

- 5.4 This site is not currently included within the settlement limit of Newbuildings. If zoned, it would meet the identified local social housing need for Newbuildings and a proportion of the social housing need for the Waterside Area and provide a high quality housing development which is deliverable in the short to medium term.
- 5.5 The objection is consistent in broad terms with the general thrust of the Regional Development Strategy (RDS) to promote compact urban forms as a more sustainable pattern of development.

# Appendix MKA 1

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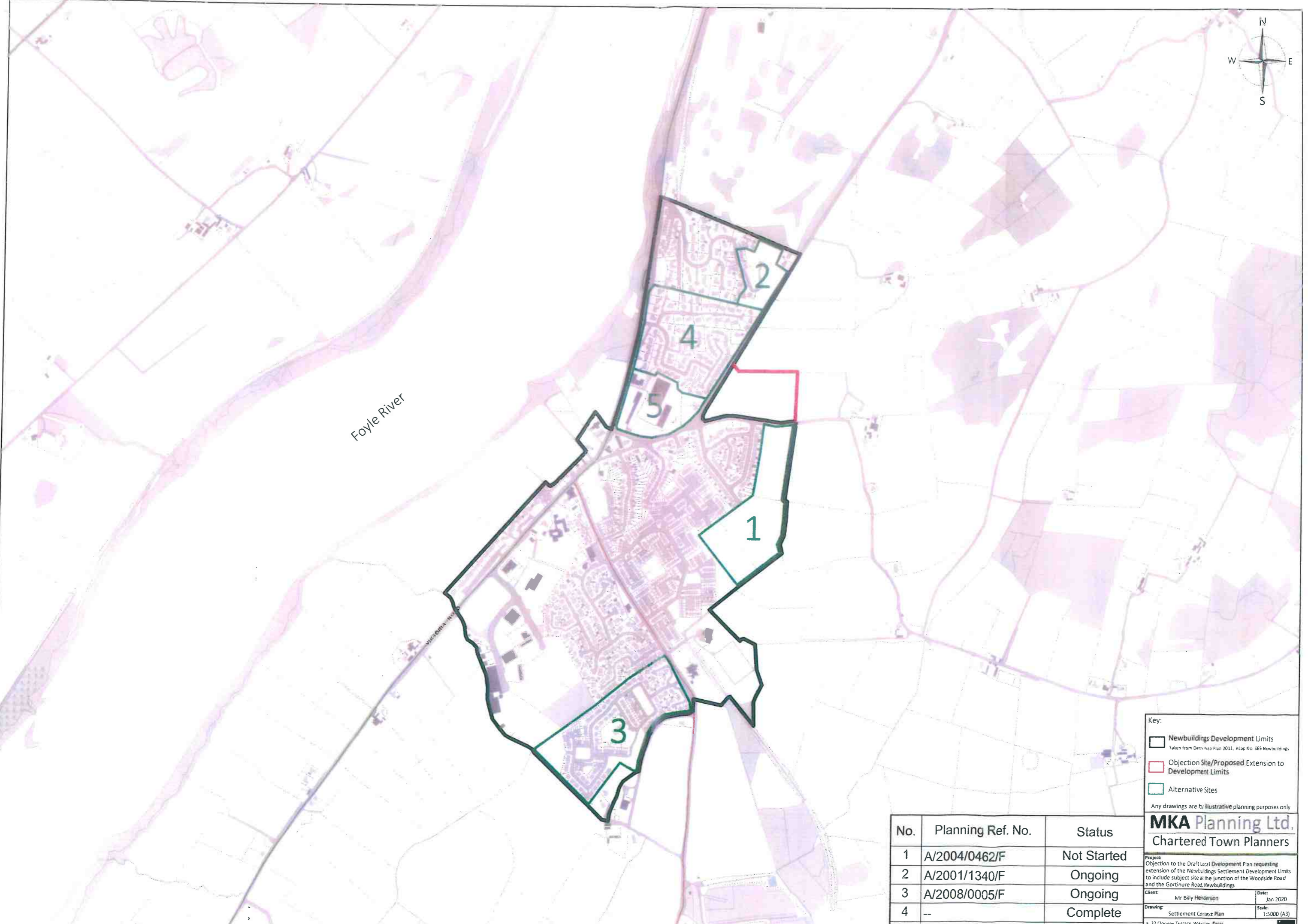
Appendix 2 Social Housing Need by Settlement 2018-2023

Settlement	Social Housing Need 2018-23
<b>Derry City</b>	
Derry 1/Waterloo Place Westbank	962
The Fountain	0
Derry 3/Collon Terrace Westbank	1,047
Waterside 1	150
Waterside 2	129
Waterside 3	168
Curryneirin	3
Drumahoe	10
Tullyally	4
<b>Derry City Total</b>	<b>2,473</b>
<b>Towns</b>	
Strabane Town	139
<b>Villages</b>	
Ardstraw	0
Artigarvan	0
Ballymagorry	15
Castlederg	5
Clady	3
Claudy	20
Donemana	0
Eglinton	14
Erganagh	0
Killen/Killeter	0
Lettershandoney	4
Magheramason	3
Newbuildings	4
Newtownstewart	0
Park	0
Plumbridge	0
Sion Mills/Glebe	26
Spamount	0
Strathfoyle	25
<b>Small Settlements</b>	
Ardmore	4
Coshquin	4
Douglas Bride	5
Maydown	0
Nixons Corner	0
<b>Total</b>	<b>2,744</b>

## Appendix MKA 2

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Foyle River

Key:  
 [Black Outline] Newbuildings Development Limits  
Taken from Derry Area Plan 2011, Map No. SES Newbuildings  
 [Red Outline] Objection Site/Proposed Extension to Development Limits  
 [Green Outline] Alternative Sites  
 Any drawings are for illustrative planning purposes only

No.	Planning Ref. No.	Status
1	A/2004/0462/F	Not Started
2	A/2001/1340/F	Ongoing
3	A/2008/0005/F	Ongoing
4	--	Complete

**MKA Planning Ltd.**  
 Chartered Town Planners  
 Project: Objection to the Draft Local Development Plan requesting extension of the Newbuildings Settlement Development Limits to include subject site at the junction of the Woodside Road and the Gortinure Road, Newbuildings  
 Client: Mr Billy Henderson Date: Jan 2020  
 Drawing: Settlement Context Plan Scale: 1:5000 (A3)  
 a: 32 Clooney Terrace, Wideside, Derry

# Appendix MKA 3

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# Appeal Decision

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<b>Appeal Reference:</b>	2017/A0042.
<b>Appeal by:</b>	GR Homes.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Amended layout from approval A/2004/0462/F with reduction from 166 units to 155 units comprised of 12 no. detached, 86 no. semi-detached and 57 townhouses.
<b>Location:</b>	Lands immediately to the east of Primity Crescent, Primity Park and Silverbrook Park, Newbuildings.
<b>Planning Authority:</b>	Derry City & Strabane District Council.
<b>Application Reference:</b>	A/2010/0489/F.
<b>Procedure:</b>	Hearing on 29 November 2017.
<b>Decision by:</b>	Commissioner Mark Watson, dated 14 March 2018.

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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. Following the submission of a Biodiversity Checklist by the Appellant, the Northern Ireland Environment Agency – Natural Environment Division withdrew its objections in relation to insufficient information pertaining to potential impacts on bats, birds and badgers. The Council consequently withdrew the fourth reason for refusal in its Statement of Case.

## Reasons

3. The main issues in this appeal are whether or not the appeal development:
  - could through imposition of a negative condition, secure necessary off-site improvements to existing drainage infrastructure;
  - includes adequate measures that would effectively mitigate the flood risk to the appeal development itself and to existing nearby development;
  - would adversely impact on existing residential amenity by way of a proposed flood wall;
  - would adversely impact on existing residential amenity by way of overlooking and overshadowing; and
  - create significant traffic delays on the existing public road network and prejudice road safety.
4. The Derry Area Plan 2011 (DAP) operates as the statutory local development plan for the proposal. In it, the site lies in the development limit of the village of Newbuildings. A small portion is zoned as open space whilst the remainder is shown

as whiteland. Several policies within the DAP are of relevance; namely Housing Policies H1 and H2, Policies R1 and R3 relating to open space and Policy PU2 relating to areas at risk of flooding. No objections were raised by the Council in respect of the housing layout or the open space aspect to the proposed development and given my conclusions elsewhere in this decision pertaining to the Objectors' concerns on the housing matters, I find that Policies H1, H2, R1 and R3 of the DAP are not offended. I will address Policy PU2 elsewhere in this decision.

5. In respect of the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) and those of Planning Policy Statement 15 (Revised) - Planning and Floodrisk (PPS15), Planning Policy Statement 7 - Quality Residential Environments (PPS7) and Planning Policy Statement 3 - Access, Movement and Parking (PPS3). PPS15, PPS7 and PPS3 remain the applicable policy context to consider the proposed development under.
6. The site has previously been granted full planning permission for 166 dwellings (ref A/2004/0462/F) on 4 January 2007. Whilst foundations for a dwelling and the access into the site from Gortinure Road have been constructed, the Council queried whether this had been done within the lifetime of the permission. The appeal proposal utilises the approved roads layout and other design features from the previous permission, but reduces the quantum of development from 166 to 155 and entails different house types.
7. The site and adjacent housing estates experience overland flooding, as during periods of heavy or sustained rainfall, surface water runs down from the lands to the east into the appeal site. An existing drain within part of the site becomes overwhelmed and the water then runs off the site and into the adjacent residential development to the west. An existing culvert that crosses under the road carries water from the appeal site to the northern side of the road to a pipeline that runs parallel to the Gortinure Road, which is sub-standard and under capacity. As a result there are incidences of flash-flooding on the public road in proximity to the appeal site. During my site visit I observed debris and mud strewn across the Gortinure Road as a result of recent rainfall.
8. The appeal development proposes works to address the overland flooding issue by intercepting the run-off from the sloping lands to the east of the site and channelling that water along a cut-off drain situated along the eastern site boundary. That water would then be taken under the Gortinure Road via the existing 450mm culvert and into an existing pipeline that runs along and under the Gortinure Road westwards. As the pipeline the culvert runs into is under capacity it would require upgrading to a larger sized pipe.
9. The Council considered that as third party land would be required to facilitate this upgrade, the Appellant must provide evidence of control or agreement with the relevant landowners to carry out the works. Discussions between the Council and Appellant have taken place for over two years on this particular issue, but no resolution has yet been reached. Whilst the Appellant's representative suggested that only Department for Infrastructure (DFI) Roads consent would be required for the works, I was told by the DFI Roads witness that the previous works, wherein the substandard pipeline had been installed, also included third party land on the opposite side of Gortinure Road. Thus third party land would still be required. There

was also debate between the parties as to whether or not NI Water would accept overland drainage into their system for discharge elsewhere. The Appellant's representative, despite having stated in his Statement of Case that negotiation with the relevant parties was well advanced, conceded at the hearing that the progress was not as far advanced as he had been informed. It was nonetheless the Appellant's opinion that the use of a negative condition could secure the works. The Council considered there was no reasonable prospect of such agreement being reached.

10. The Appellant stated that he is committed to carrying out the works to upgrade the drainage infrastructure at Gortinure Road. From the totality of the evidence I agree that it is likely that third party consent will be required in order to secure these works. From the time elapsed to date in respect of this matter, it does not appear that a quick resolution is likely. However, nonetheless, the use of a negative condition would still be an appropriate means to secure this off-site work. Just because agreement has not yet been reached it does not follow that subsequent third party agreement could not be secured within the lifetime of any permission granted. Whilst concerns were raised that NI Water was unlikely to allow the overland run-off into its system, were it the case that this water could not be disposed of, then the development simply could not go ahead, if framed by a negative condition as suggested by the Appellant. I am not persuaded by the submitted evidence that there is no reasonable prospect of the required works being carried out. Subject to the imposition of a negative condition requiring the off-site upgrade works, the development would not offend PPS15 or the related provisions of the SPPS.
11. The Council raised concerns that the P1 form had not been amended to explicitly include the proposed upgrading of the Gortinure Road pipeline. The description of the proposed development contains adequate information to alert a reader of the advert to what is intended for the site. If any party then wished to learn more of what was proposed, it would be for them to inspect the application and detailed plans. I am not persuaded that third parties unaware of the proposed upgrading of the pipeline would be prejudiced as anyone having had regard to the advert would be aware of the overall proposed development. The Council's second reason for refusal is not sustained.
12. Policy PU2 of the DAP relates to areas at risk from flooding. It states that development will not normally be permitted in areas know to be at serious risk from flooding. The policy goes on to state that Rivers Agency is responsible for land drainage and surface run off and will be consulted on applications for development in certain instances. Policy PU2 contains nothing more of relevance to the appeal development and although material, PPS15 provides the substantive policy consideration for the appeal development. Policy FLD3 of PPS15 states that a Drainage Assessment (DA) will be required for all development proposals that exceed any of three thresholds, one of which is residential development comprising of 10 or more dwelling units. Policy FLD3 goes on to state that a DA will also be required for any development proposal, except for minor development, where the proposed development is located in an area where there is evidence of a history of surface water flooding or surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage. The SPPS contains these same requirements for a DA.

13. The Appellant submitted a DA during the application process, which was revised on two occasions. The final iteration (Version C submitted in October 2016) proposed the use of a cut-off channel along the eastern site boundary as outlined earlier to intercept overland flow entering the site from the lands to the east. Another element was the use of a reinforced concrete wall along the western most corner of the site to provide a barrier to collect exceedance waters and prevent them from flowing into the adjacent residential development at Primity Park and Primity Crescent. This exceedance would then drain off in due course. DFI Rivers in its evidence identified a number of issues with the DA, including fundamentally, that there was insufficient base information on the total catchment area, which in turn has implications on the overall discharge calculation. The Rivers witness was unconvinced that the entire site could be drained in one direction given that the site is bisected by a hedgeline, with the land to either side of that falling in opposite directions. Queries were also raised as to the hydraulic capacity and structural integrity of both an existing pipeline within the site as well as the 450mm culvert pipe that runs under the Gortinure Road. In respect of the storage area in the western most corner of the site for exceedance waters, although accepting that the proposal had merit in principle, DFI Rivers queried the lack of attenuation volume calculations and how any stored exceedance waters would be drained off. Some Objectors had raised general concerns at the overland flooding issue.
14. At the hearing the Appellant provided an expert witness (not the author of the submitted DA) who was able to provide responses to a number of queries raised by the DFI Rivers witness, but accepted that the design of the drainage system was not finalised. From the total evidence presented the submitted DA does not adequately detail the base information for water affecting the site or provide sufficient detail in respect of the measures proposed to address the issues affecting the site. From the verbal evidence provided at the hearing it appeared to be the case that a new DA would be required in order to fully address the DFI Rivers concerns. Whilst NI Water will accept the run-off from the hard surfaces and roads within the proposed development, this would not account for the total potential run-off from the site given the overland flooding issue. The lack of a comprehensive DA in respect of the proposed flood works, underpinned by the necessary calculations to demonstrate how effective those measures would be, does not persuade me that even were a Sustainable Drainage System to be employed in the layout, approval of the appeal development would not cause a flood risk to the appeal development itself, or not cause an increase in flood risk elsewhere. The submitted information does not adequately demonstrate that exceedance from the proposal can be directed, stored and disposed of safely. I am not, however, persuaded that the concerns raised as to who would ensure safe construction of the flood wall and adopt it upon completion would be matters warranting rejection of the proposal.
15. The Appellant and his witness considered that, again, the use of a negative condition could ensure the submission of a new DA. It was also considered that should subsequent negotiation between the Appellant and DFI Rivers result in measures that would require planning permission, then a separate application for those works could be submitted. Although the Appellant's witness was confident that a technical solution could be devised to adequately address the issues with overland flooding and ensure both safe attenuation of water on site and disposal of the same, as it stands there remains insufficient information on the effects of the flooding issue. I have had regard to the relevant case law in *Grampian Regional Council v City of Aberdeen District Council* (1984) raised by the Appellant. The



imposition of a negative condition can, in many cases, be appropriate to secure the submission of information or require certain measures to be carried out prior to the commencement of the approved development. However, in this case, there are potential effects relating to the collection and disposal of overland surface water. There is insufficient information to be satisfied that surface water run-off from the adjacent eastern land can be collected and disposed of without causing flood risk to both the appeal development itself and development elsewhere. It also remains unknown if the exceedance from the appeal development can be directed, sorted and then safely disposed of. Failure to satisfactorily address any of these matters would result in demonstrable harm. I am not persuaded that there is sufficient information to fully assess the effects of the development in respect of flooding and mitigation measures or that planning permission should be granted before these matters are fully determined. As such I am not persuaded that in this case the use of a negative condition would be appropriate, even though a successful solution would not only address drainage matters for development on the site but also third party run-off. In the absence of such information I am unable to conclude that the appeal development would comply with Policy FLD3 of PPS15, or the related provisions of the SPPS.

16. The Appellant considered that he had a viable fallback position in that if permission was refused for the appeal development he could continue with the approved development. Despite the contention with the Council over whether the development on site had taken place within the lifetime of permission A/2004/0462/F, I note from the Council Development Management Report that it considered that the roadway /access had been commenced, though it does not specify when this took place. I also note the laying of foundations for one dwelling at the northern end of the site. However, I do not have a Certificate of Lawfulness of Existing Use or Development before me to demonstrate that the works carried out on site were done so during the lifetime of the earlier planning permission. However, notwithstanding this, even if one was to accept the permission was extant, that iteration of the development still faces the same challenges in respect of overland flooding and the insufficient capacity of the existing off-site drainage infrastructure. Therefore I am not persuaded that the stated fallback is a realistic one that would justify the granting of planning permission in this instance. Nor would the Appellant's position that the current iteration of the design and range of house types would better suit the modern market. The Council's first reason for refusal is therefore sustained.
17. The stamped refused detailed drawings showed an earth mound as providing the barrier for the area within which exceedance water would be collected and then allowed to drain off in a controlled manner. However, the submitted DA, which represents the Appellant's final position on this matter, shows a flood wall. The proposed flood wall is to be a 1.2m high stone clad concrete wall which wraps around the western most corner of the site adjacent to a proposed amenity area. The Council raised issue with the potential impact on the residential amenity of those occupying the adjacent dwellings in Primity Park and Primity Crescent given there was no detailed drawing of the wall. It was stated that those residents had not been neighbour notified in respect of the proposed wall. Whilst no neighbourhood notification took place in respect of the proposed wall, it formed part of the proposal within the DA itself. The application had been advertised and third parties were afforded opportunity to inspect and comment on the application. Likewise when the appeal was submitted it too was advertised and third parties were afforded

opportunity to comment, as well as to participate at the hearing. I am not persuaded that the fact neighbour notification did not take place in respect of one element of the appeal proposal would warrant rejection of that proposed development.

18. At the hearing it was clarified that the wall would be erected behind the existing western hedge line, which is shown on the plans to be retained. On that basis the Council witnesses accepted that there would be no impact on the existing amenity of residents within the adjacent developments, were the wall to be constructed as part of the appeal development. From my own assessment I agree that its location, along with the higher hedgeline adjacent which forms the party boundary, would ensure that existing residential amenity would not be adversely impacted. The Council's third reason for refusal is not sustained.
19. Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. QD1 goes on to state that all proposals for residential development will be expected to confirm to all of 9 criteria. The Objectors raised issues relating to criterion (a) of QD1; that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. They also raised objections under criterion (h); the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse impact on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
20. The existing properties at Silverbrook Park in closest proximity to the appeal site are bungalows. Objectors raised the impacts of overlooking, light and shadowing from new development. From my own assessment of the proposed plans and site inspection, although the introduction of two storey buildings would obviously differ from the adjacent single storey development, they would not necessarily be out of character, nor would the overall proposed layout fail to respect the surrounding context. The proposed separation distances are sufficient that even with the higher designs of the proposed dwellings along the portion adjacent to Silverbrook Park, they would not give rise to any unacceptable level of overshadowing or block light into the rear of the nearby properties. Likewise, the relationship between existing and proposed development is sufficient, along with the relative orientation of the new dwellings to those existing, as to avoid any unacceptable degree of overlooking into the rear of Silverbrook Park properties. Whilst the Objectors detailed the protracted negotiations that took place during the earlier planning application A/2004/0462/F to get bungalows on this portion of the site, it does not follow that a different design option would not be appropriate and policy compliant. I find that the proposed layout and design meets criteria (a) and (h) of Policy QD1 of PPS7. The Objectors' concerns on these matters would not warrant the withholding of planning permission.
21. Objectors also feared that construction traffic would be brought through Silverbrook Park, as would a potential new permanent access for the appeal development. The Appellant reaffirmed that the only access proposed for the site, both for the construction phase and ultimately the ongoing residential use of the site, would be the dedicated site access onto the Gortinure Road.

22. Objectors pointed to the additional traffic onto the road system arising from the appeal development. They feared it would add to delays with traffic sitting at the junction between Woodside Road and the priority road, the A5 Victoria Road, during peak hour movements. The interaction of traffic from the appeal development with that of a recent development on Woodside Road would further exacerbate the existing situation. Concerns were also raised at the increased chance of road accidents occurring. I am told by the DFI Roads witness that the junction delay issue arises from the volume of traffic on the A5 itself. It was stated that the appeal development itself would not alter or worsen this. I note that DFI Roads raised no objections to the appeal development. Whilst I am mindful of the difficulties existing residents experience in seeking to get onto the A5 during peak periods, I am not persuaded that the appeal development would significantly inconvenience the flow of traffic or appreciably add to the existing delays at the junction in question. Whilst any new development will inevitably result in further vehicular traffic, the appeal development can provide a safe access to the appropriate standard and I am not persuaded that the granting of planning permission would prejudice road safety or increase the risk of road accidents. I consider that the appeal development complies with Policy AMP2 of PPS3.
23. Whilst the Council's second and third reasons for refusal and the Objectors' issues have not been sustained, the remaining reason for refusal based on a lack of information in respect of flooding and Objectors' related concerns have been sustained and are determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01 Rev 1	Location Plan	1:2500	Nov 2013
02 Rev 1	Site Layout	1:500	Dec 2006
03 Rev 2	Site Layout – Landscape Plan	1:750	July 2012
04	Road Sections	1:100v & 1:500h	Oct 2010
05	Road Sections	1:100v & 1:500h	Oct 2010
06	Road Sections	1:100v & 1:500h	Oct 2010
07 Rev 1	Site Layout – Private Streets Determination	1:500	April 2013
08	Exceedance Storage Layout	1:100 & 1:500	April 2016
09	Drainage Layout Sheet 1	1:500	Oct 2016
10	Drainage Layout Sheet 2	1:500	Oct 2016
11	Culvert Replacement Drawing	1:500 & 1:20	Oct 2016
12	House Types A - D	1:100	Jun 2010
13	House Types E, F, G/G1	1:100	Jun 2010
14	House Types H, M & Townhouse 1, 2 & 3	1:100	Jun 2010
15	House Type K	1:100	Jan 2011

**COMMISSIONER MARK WATSON**

### List of Appearances

Planning Authority:- Mr J Duffy (DC & S District Council)  
Ms S Barrett (DC & S District Council)  
Mr N Jenkinson (DFI Rivers)  
Ms L McWilliams (DFI Roads)  
Mr G White (DFI Rivers)

Appellant:- Mr T Wilson (agent)  
Mr K Ramsay (consulting engineer)  
Mr M Conlon

Third Parties:- Mr & Mrs D and Y Snodgrass (Objectors)

### List of Documents

Planning Authority:- 'A' Statement of Case & Appendices (DC & S District Council)

Appellant:- 'B' Statement of Case & Appendix (Tom Wilson Planning)

Third Parties:- 'C' Statement Letter (L Bull)  
'D' Statement Letter (A J Moore)  
'E' Statement Letter & Appendices (Mr H Stott)

# Appendix MKA 4

MKA PLANNING LTD  
Chartered Town Planners

32 Clooney Terrace, Waterside, Derry, BT47 6AR,  
Tel: (028) 71 311551 Fax: (028) 71 313404

# Print Version



## Summary

<b>Reference</b>	A/2001/1340/F
<b>Application Received</b>	Fri 14 Dec 2001
<b>Address</b>	Land between Dunhugh Park and Woodside Road, Dunhugh, Londonderry
<b>Proposal</b>	Proposed Housing Development (Revised Layout)
<b>Status</b>	Permission Granted
<b>Authority Decision</b>	Permission Granted
<b>Authority Decision Date</b>	Wed 18 Feb 2004
<b>PAC Decision</b>	Not Available
<b>PAC Decision Date</b>	Not Available

## Further Information

<b>Application Type</b>	Full
<b>Authority</b>	Derry and Strabane
<b>Ward</b>	New Buildings
<b>Applicant Name</b>	Braidwater Enterprises Limited
<b>Environmental Assessment Requested</b>	Yes

## Contacts

### Agent

Coogan & Co Architects Ltd

**Phone number** 02890339900

**Fax Number** 02890339990

## Important Dates

<b>Application Received Date</b>	Fri 14 Dec 2001
<b>Application Validated Date</b>	Fri 14 Dec 2001
<b>Latest Neighbour Consultation Date</b>	Mon 11 Feb 2002
<b>Neighbour Consultation Expiry Date</b>	Mon 11 Mar 2002
<b>Standard Consultation Date</b>	Wed 30 Jan 2002
<b>Standard Consultation Expiry Date</b>	Tue 10 Jun 2003
<b>Date Last Advertised</b>	Tue 03 Dec 2002
<b>Latest Advertisement Expiry Date</b>	Tue 17 Dec 2002
<b>Statutory Expiry Date</b>	Not Available
<b>Decision Issued Date</b>	Thu 19 Feb 2004
<b>Permission Expiry Date</b>	Wed 18 Feb 2009

**Environmental Impact Assessment Received** Not Available

**Temporary Permission Expiry Date** Wed 18 Feb 2009  
**Date Withdrawn** Not Available

### Related Information

There are 0 properties associated with this application.

# Appendix MKA 5

MKA PLANNING LTD  
Chartered Town Planners

32 Clooney Terrace, Waterside, Derry, BT47 6AR,  
Tel: (028) 71 311551 Fax: (028) 71 313404



# Print Version



## Summary

<b>Reference</b>	A/2008/0005/F
<b>Application Received</b>	Thu 27 Dec 2007
<b>Address</b>	Lands to the rear and south west of Gortin Manor, Duncastle Road, Newbuildings
<b>Proposal</b>	Redesign of previously approved housing development & associated site works - total of 129 units- 66 no. two storey townhouses, 6 no. one and a 1/2 storey townhouses, 26 no. two storey semi-detached houses, 31 no. duplex two storey apartments.
<b>Status</b>	Permission Granted
<b>Authority Decision</b>	Permission Granted
<b>Authority Decision Date</b>	Thu 16 Apr 2009
<b>PAC Decision</b>	Not Available
<b>PAC Decision Date</b>	Not Available

## Further Information

<b>Application Type</b>	Full
<b>Authority</b>	Derry and Strabane
<b>Ward</b>	Holly Mount
<b>Applicant Name</b>	Beshouse Residential Properties Ltd

**Environmental Assessment Requested** Yes

## Contacts

### Agent

Footprint Architectural Design

**Phone number** 02893324700

**Fax Number** 02893340674

## Important Dates

<b>Application Received Date</b>	Thu 27 Dec 2007
<b>Application Validated Date</b>	Thu 27 Dec 2007
<b>Latest Neighbour Consultation Date</b>	Wed 09 Jan 2008
<b>Neighbour Consultation Expiry Date</b>	Wed 06 Feb 2008
<b>Standard Consultation Date</b>	Wed 09 Jan 2008
<b>Standard Consultation Expiry Date</b>	Thu 05 Mar 2009
<b>Date Last Advertised</b>	Wed 16 Jan 2008
<b>Latest Advertisement Expiry Date</b>	Not Available

<b>Statutory Expiry Date</b>	Not Available
<b>Decision Issued Date</b>	Thu 16 Apr 2009
<b>Permission Expiry Date</b>	Wed 16 Apr 2014
<b>Environmental Impact Assessment Received</b>	Not Available
<b>Temporary Permission Expiry Date</b>	Wed 16 Apr 2014
<b>Date Withdrawn</b>	Not Available

### **Related Information**

There are 0 properties associated with this application.

# Appendix MKA 6



MKA PLANNING LTD  
Chartered Town Planners

32 Clooney Terrace, Waterside, Derry, BT47 6AR,  
Tel: (028) 71 311551 Fax: (028) 71 313404



**OUTLINE PLANNING PERMISSION**  
**Planning Act (Northern Ireland) 2011**

Application No: **LA11/2016/0753/O**

Date of Application: **31st August 2016**

Site of Proposed  
Development.

**Land At Former IAWS Site Located On Woodside Road  
Together With Existing Residential Land At No's 61-63  
Woodside Road Newbuildings**

Description of Proposal:

**Demolition of existing buildings, site remediation,  
repositioning of existing vehicular access on Woodside  
Road and the erection of 81 residential units with off road  
car parking, and the provision of centrally located public  
amenity space**

Applicant: **JTJ (IAWS) Group Ltd**  
Address: **4th Floor  
41 St Vincent Place  
Glasgow  
G12 8ER**

Agent: **Mark McIvor**  
Address: **25 Troy Park  
Derry  
BT48 7RL**

Drawing Ref: **01, 04 REVISION 2, 15**

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The Council in pursuance of its powers under the above-mentioned Act hereby

**GRANTS OUTLINE PLANNING PERMISSION**

for the above-mentioned development in accordance with your application subject to compliance with the following conditions which are imposed for the reasons stated:

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011,





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: Time Limit

2. The under-mentioned reserved matters shall be as may be approved, in writing, by the Council:-

Siting; the two dimensional location of buildings within the site.

Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of the buildings and the relationship with their surroundings including height, massing, number of storeys, general external appearance and suitability for the display of advertisements.

External appearance; the colour texture and type of facing materials to be used for external walls and roofs.

Access; the location and two dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, car parking, facilities for the loading and unloading of vehicles and access to individual buildings within the site.

Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surfaces areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means, the laying out of gardens and the provisions of other amenity features.

Reason: To enable the Council to consider in detail the proposed development of the site.

3. The development shall incorporate such a mix of dwelling types and such a range of unit sizes as may be approved by the Planning Authority of Derry





City and Strabane District Council

Reason: To provide a comprehensive mix of housing units in accordance with the provision of Planning Policy Statement 7 Quality Residential Environments.

4. All existing trees, shrubs and hedges/natural screening on the boundaries of the site shall be permanently retained unless otherwise agreed in writing with the Council. If any such tree, shrub or hedge is removed, uprooted, destroyed, dies or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species shall be planted at the same place during the next planting season, unless the Council gives its written consent to any variation.

Reason: To ensure the development integrates in a satisfactory manner into the locality.

5. The development shall include delineated areas of public open space comprising not less than 10% of the total site area, laid out and maintained in perpetuity for this use thereafter, in accordance with a Landscape Scheme and management arrangements submitted as part of the application for approval of reserved matters, comprising planting details including species, size at time of planting, siting and planting distances, a programme of planting and a programme of maintenance as may be approved by the Council. Trees and shrubs dying within 5 years of planting shall be replaced with trees and shrubs similar in size to that dying. The Landscape Scheme shall be submitted to and agreed with the Council at Reserved Matters stage and the details shall be carried out as agreed.

Reason: To ensure that there is a satisfactory standard of open space provided and maintained in perpetuity in accordance with the provisions of Planning Policy Statement 8 (PPS8) - Open Space, Sport and Outdoor Recreation.

6. No dwelling shall be occupied in the proposed development until a Landscape Management Agreement for all areas of open space as referred to in Condition 5 has been entered into and agreed with an Open Space Manager, the details of which shall be submitted to and agreed in writing by the Council.

Reason: To ensure the open space provision is managed in perpetuity in accordance with the Planning Policy Statement 8 (PPS8) Open Space, Sport and Outdoor Recreation.

7. No development shall take place until a plan/cross sections of the site have been submitted to and approved by Council indicating the existing and proposed contours, levels and finished floor levels of the proposed dwellings.





Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

8. A boundary treatment plan for the site shall be submitted at reserved matters stage, defining each curtilage. The boundary treatments shall be carried out as approved.

Reason: To ensure that boundary treatments are provided to assist in the provision of a quality residential environment in accordance with PPS 7 - Quality Residential Environments.

9. No part of the development hereby permitted shall commence until full details of all retaining structures have been submitted to and agreed by the Council in writing.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

10. All storm water from the development site should not be discharged to nearby watercourses unless first passed through pollution interception and flow attenuation measures.

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

11. Prior to the commencement of demolition/construction works at the site of the proposal the applicant shall submit to the Planning Department for the attention of the Environmental Health Service a detailed environmental management plan detailing all noise and dust mitigation measures that will be adopted at the site of the proposed development. The detailed environmental management plan shall include;
  - a. Details of any proposed acoustic barriers that will be installed temporary along the boundary between any residential properties and the proposal. The details should include detailed barrier height calculations to demonstrate that noise from cumulative construction works will not cause loss of amenity to nearby residential properties.

Reason: To prevent loss of amenity

12. Demolition/construction works at the site of the proposed development shall be restricted to the hours of 07:00 to 19:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.





Reason: To prevent loss of amenity.

13. Noise from the demolition/construction works shall not exceed 75dBLAeq(12hr) at the nearest residential properties between the hours of 07:00 to 19:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

Reason: To prevent loss of amenity.

14. Prior to the commencement of the proposed development the applicant shall submit to the Planning Department details of all noise mitigation measures that will be incorporated into the proposed development to ensure that suitable external and internal noise levels can be achieved in line with relevant noise guidelines.

Reason: To prevent loss of amenity.

15. Prior to the occupation of the proposed development the applicant shall submit a detailed odour impact assessment to demonstrate that odours associated with the existing hot food bars/supermarket will not exceed 3ou/m<sup>3</sup> at any residential properties within the proposed development.

Reason: To prevent loss of amenity.

16. Prior to the occupation of the proposed development, the applicant shall provide to the Planning Department, for approval, a Verification Report. The report must demonstrate that the remediation measures outlined in the Pentland Macdonald report titled 'Contamination Assessment and Remediation Strategy, Woodside Road, Newbuildings for MCI Planning & Development' referenced PM16-1061 dated July 2016 have been implemented.

The verification report shall demonstrate the successful completion of remediation work and that the site is now fit for the intended end use (Residential setting -with home grown produce). It must demonstrate that the identified potential pollutant linkages are effectively broken. The verification report shall be in accordance with current best practice and guidance as outlined by the Environment Agency. In particular, this verification report must demonstrate that:

- a. remedial works are carried out within the entire highlighted area of the site as presented in the Pentland Macdonald drawing titled 'Portion of site requiring remediation across gardens and landscaped areas,' figure 4, dated July 2016.







- b. gardens of all proposed residential properties are encapsulated with a barrier of 1m depth consisting of a geotextile membrane with a capillary layer of 300mm granular material overlain with 700mm of clean subsoil/topsoil.
- c. all landscaped areas are encapsulated with a barrier of 600mm depth consisting of a geotextile membrane with 600mm of clean gravel/subsoil/topsoil.
- d. all imported materials for the gardens/landscaped areas are suitable for the intended end use of the proposal (Residential setting -With home grown produce)
- e. all remaining areas of the proposed development have been covered with a layer of hardstanding.
- f. Gas ingress protection measures in line with BS8485(2015) 'Code of practice for design of protective measures for methane and carbon dioxide ground gases for new buildings,' Characteristic Situation 2 have been installed within all proposed residential properties. These measures must include a proprietary gas resistant membrane installed and inspected under CQA(Construction Quality Assurance) for the installation. All service points are to be demonstrably sealed.
- g. all reusable excavated soils shall be used only as fill material in areas underneath proposed hardstanding
- h. all excavated material that cannot be reused on site should be taken to an appropriate landfill site. Waste classification documentation and waste management duty of care documentation in relation this material should be presented as evidence of its disposal.

Reason: Protection of human health.

- 17. In the event that contamination not previously considered is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination and its management must be submitted to the Planning Department for approval. The investigation and risk assessment must be undertaken in accordance with current best practice.

Reason: Protection of human health.





18. Prior to the demolition of all existing buildings onsite the applicant shall submit to the Planning Department evidence that all Asbestos Containing Materials within the existing buildings have been removed by a licensed asbestos removal contractor and disposed of at an appropriate landfill site following 14 days notification to HSENI. All removal works must comply with The Control of Asbestos Work Regulations (NI) 2012. The applicant should also liaise with the NIEA to ensure that all waste is suitably classified and disposed of at an appropriate waste facility.

Reason: Protection of human health

19. A Construction Environmental Management Plan must be submitted to the Council at least eight weeks prior to works commencing. This is to include the following:
- a. Details of all proposed excavations and construction. Details of any construction compound to include areas for storage of oils, fuels and chemicals. A proposed storm drainage plan 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 SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C697.
  - b. Detailed drawing plans, demonstrating buffer zones of at least 10m to the watercourse as well as the storm drainage proposed.
  - c. Details of all pollution prevention measures to be employed during the works, this must include details of the safe use of wet concrete on the site, the erection of a suitable barrier to prevent the egress of contaminated surface water runoff from the construction site, the refuelling of construction machinery and the storage of fuel/ spoil to be undertaken at least 10 metres from all watercourses.

Reason: To ensure the proposal will not have an adverse effect on site integrity of any European site.

20. All excavations should be covered at night or have a means of escape for otters (planks or soil ramps), as stated in the Extended Phase 1 Habitat Survey Report (dated 22nd August 2016.)

Reason: To ensure protection of otters.





21. If during the development works, new contamination and risks are encountered which has 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 to its satisfaction.

Reason: To ensure the proposal will not have an adverse effect on site integrity of any European site and to ensure protection of environmental receptors to ensure the site is suitable for use.

22. After completing any remediation works required under Condition 21, 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 and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

23. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

24. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department 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.

25. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The development shall be in accordance with the requirements of the Council's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Council shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Street (Northern Ireland) Order 1980.

26. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted, shall be commenced, until the road improvements on Woodside Road have been completed in accordance with details to be submitted to and approved by the Council at Reserved Matters Stage as indicated generally on Drawing No. 15 bearing the date stamp 30 May 2017 and to include:

- A right turn lane on Woodside Road to access the development and Woodside Park
- Junction improvements to the Woodside Road at its junction with Victoria Road
- Footway and cyclepath improvements to link the development with A5 Victoria Road, Gortinure Road and Rock Park.

The Council may attach to any determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

27. The visibility splays of 4.5 metres by 90 metres at the junction of the proposed access road with the public road, shall be provided in accordance with





Drawing No 15 bearing the date stamp 30 May 2017, prior to the commencement of any other works or other development.

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

28. Notwithstanding the provisions of the Planning (General Development) Order (NI) 1993 no garages shall be sited closer than 6.0 metres from the back of the footway or the near edge of a shared surface carriageway.

Reason: To ensure that there is space for a parked vehicle without encroaching onto the footway or service strip.

29. No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course, the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

30. Plans at Reserved Matters shall show protection measures for retained trees and hedgerows in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: To protect existing, retained trees and minimise the impact of the proposal on the biodiversity of the site.

31. An updated Bat Survey carried out to NIEA specifications must be submitted at Reserved Matters Stage.

Reason: To ensure there are no impacts on Bats.

32. No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.





Reason: To ensure a practical solution to sewage disposal is possible at this site.

33. Each 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 buildings are occupied.

Reason: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway.

#### Informatives

1. This approval relates to stamped approved drawing no 01 date stamped 31 August 2016, 04 Revision 2 date stamped 24 May 2017 and drawing no 15 date stamped 30 May 2017.
2. In accordance with the Minister's Statement on Quality Initiative, a high standard of design, layout and landscaping is required and you are therefore, advised to discuss and agree with Council, a comprehensive design scheme which sets out the broad details of the scheme and the process by which it was conceived, prior to the submission of a further application in accordance with the Department's publication "Creating Places: achieving quality in residential developments".  
  
It should be noted that the concept layout as indicated on drawing no 04 Revision 2 date stamped 24 May 2017 may not be the only concept design that would be considered acceptable to Council. If the developer wishes to discuss alternative proposals, then the Council will enter into discussions based on PPS7 - Quality Residential Environments, PPS8 - Open space, Sport and Outdoor Recreation and other relevant publications.

3. Transport NI comments

It is a DfI TransportNI requirement that all structures which fall within the scope of the current version of BD 2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted to the Technical Approval Authority through the relevant Division.





Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard maybe necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to TransportNI Network Services through the relevant Division.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a TransportNI drainage system

#### 4. Environmental Health comments

##### Waste and Contaminated Land (NI) Order 1997

The applicant is advised that the proposed commencement of Part III of the above legislation may introduce retrospective environmental liabilities to the applicant following the development of this site. The comments provided by Derry City and Strabane District Council are without prejudice to any future statutory control which may be required under Part III or any future environmental legislation.

The disposal of waste to land also requires a Disposal Licence under the Waste and Contaminated Land (NI) Order 1997 issued by the Waste Management Unit of the NIEA ( or an exemption from such requirements). NIEA Waste Management Unit should be consulted directly regarding the removal of waste material that cannot be reused on site to an appropriate landfill site. This Agency is empowered to include conditions in any waste management licence relating to ensuring that the disposal or recovery of waste takes place without endangering human health and without using processes or methods which could harm the environment and in particular without risk to water, air, soil, plants or animals or causing nuisance through noise or odours.

#### 5. Natural Environment Division comments

NED recommend that, should approval be granted, the following measures are taken to minimise threats to breeding birds and maintain availability of nest sites:

- Removal of any hedgerow vegetation or trees for access purposes and removal or





- infilling of natural features such as earth banks and ditches should be avoided.
- Any unavoidable hedgerow or tree removal should be carried out outside of the bird breeding season, which runs from 1st March to 31st August.
  - All works should remain within the access and construction footprint as shown on the original
  - Any vegetation to be planted should be native species and locally sourced.

The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*);
- Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- Deliberately to disturb such an animal in such a way as to be likely to:
  - affect the local distribution or abundance of the species to which it belongs;
  - Impair its ability to survive, breed or reproduce, or rear or care for its young; or
  - Impair its ability to hibernate or migrate;
- Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605. There is no provision within the legislation to issue licences to kill otters for the purpose of development.

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 refer and adhere to the precepts contained in Standing Advice Note No. 2. Multiple Dwellings, 4. Pollution Prevention Guidance, 5. Sustainable Drainage Systems and 11. Discharges to the Water Environment, No. 18. Abstractions and Impoundments. Standing advice notes are available at:  
[http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice.htm](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm)

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or







destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) 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;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605.

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made





unlawful by any of these provisions shall also be guilty of an offence.  
It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

#### 6. Loughs Agency

Loughs Agency request that work methods and materials must not impinge upon any nearby watercourses. The use of cement/concrete on site will require careful management. While they are versatile building materials, they are also highly toxic to aquatic life and therefore must be kept out of all drains and watercourses.

Should for any reason, oil or fuel be stored in the area, it must be kept in a bunded area (providing 110% capacity of the largest stored unit), 100m from any watercourse that appears on a 1:10 000 O.S. map of the site.

The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.

The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

#### 7. Rivers Agency comments

The responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to Section 5.1 of PPS 15)

Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to Rivers Agency, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

Any proposals in connection with the development, either temporary or permanent





which involve interference with any watercourse at the site:- such as diversion, culverting, bridging, or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

Consent to discharge additional storm run-off to the watercourse(s) serving the site may need to be deferred pending completion of proposed drainage infrastructural improvements necessary to provide adequate capacity for increased flows. The Rivers Agency should be consulted about proposed timing of development at the earliest possible time.

Visual inspection of the site indicates that it is unaffected by any watercourse(s)- open or culverted.

If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

The Rivers Agency has no record of flooding occurring at the site and visual inspection indicates that it is unlikely to be affected by general flooding originating from any watercourse(s)

There will be a general presumption against the erection of buildings or other structures over the line of culverted watercourses. Any proposal for such requires the written consent/approval of the Rivers Agency. Failure to obtain such approval is an offence under the Drainage Order which may lead to prosecution or other statutory action as provided for.

#### 8. Water Management Unit comments

The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No. 2 Multiple Dwellings.

The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No.4 Pollution Prevention Guidance.

Water Management Unit recommends the applicant refers and adheres to the precepts contained in Standing Advice Note No. 5 Sustainable Drainage Systems.





The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No. 11 Discharges to the Water Environment.

The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No. 18 Abstractions and Impoundments.

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.

#### Waste Management Comments

The purpose of the Conditions 21 & 22 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and enduse 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, Soil & Air 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.

The applicant should ensure that the management of all materials onto and off this site are suitably authorized through the Waste Management Regulations (NI) 2006 and/or the Water Order (NI) 1999.

#### 9. Historic Monuments unit

For guidance on the preparation of the Written Scheme and Programme of Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact:

Historic Environment Division Historic Monuments Unit  
Causeway Exchange  
1-7 Bedford St  
Belfast,  
BT2 7EG

Tel: 028 9082 3100  
Quote reference: SM11/1 LDY 022:025

Application for the excavation licence, required under the Historic Monuments and Archaeological Objects (NI) Order 1995, should be submitted at least 4 weeks before





work is due to begin, by a qualified archaeologist responsible for the project, to:

Historic Environment Division Historic Monuments Unit  
Causeway Exchange  
1-7 Bedford St  
Belfast,  
BT2 7EG

#### 10. NI Water Comments

Public water supply within 20m of your proposal, consultation with NIW is required to determine how your proposals can be served. Application to NIW is required to obtain approval to connect.

Foul sewer within 20m of your proposal, consultation with NIW is required to determine how your proposal can be served.

Surface water sewer within 20m of your proposal, consultation with NIW is required to determine how your proposal can be served. Application to NIW is required to obtain approval to connect.

The water requirements for you proposal may be eligible for the provision of a public watermain if it will serve more than 1 property and each property will have an individual supply direct from the proposed public watermain under Article 76 of the Water and Sewerage Service (NI) Order 2006.

The sewers within your proposal may be eligible for consideration for adoption under Article 161 of the above order if they meet the criteria as set out in the current Sewers for Adoption specification;

Existing sewer crossing site.

No construction to be made, trees planted or other obstruction made within 3m (or 1.5 times the depth whichever is greater) of sewers, or 4m (or 1.5 times the depth whichever is greater) of watermains. A diversion may be necessary. Consultation with NIW is required at an early design stage.

The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.





Although it has been determined above if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to determine how your proposal may be served. Waste Water Treatment facilities are presently available (at Culmore WwTW) to serve this proposal.

All services within the development should be laid underground.

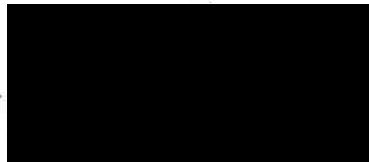
11. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

12. 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.

13. 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.

Dated: 30th June 2017

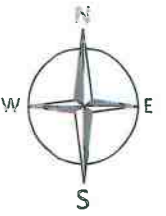
Authorised Officer



Appendix MKA 7

MKA PLANNING LTD  
Chartered Town Planners

32 Clooney Terrace, Waterside, Derry, BT47 6AR,  
Tel: (028) 71 311551 Fax: (028) 71 313404



Key:

- Newbuildings Development Limits  
Taken from Derry Area Plan 2011; Map No. SES Newbuildings
- Objection Site/Proposed Extension to Development Limits

Any drawings are for illustrative planning purposes only

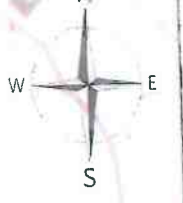
**MKA Planning Ltd.**  
Chartered Town Planners

Project: Objection to the Draft Local Development Plan requesting extension of the Newbuildings Settlement Development Limits to include subject site at the junction of the Woodside Road and the Gortinure Road, Newbuildings

Client:	Mr Billy Henderson	Date:	Jan 2020
Drawing:	Site Location Plan	Scale:	1:1250(A3)

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Foyle River

**Key:**

- Newbuildings Development Limits  
Taken from Derry Local Development Plan 2011 Map No. 555 Newbuildings
- Objection Site/Proposed Extension to Development Limits

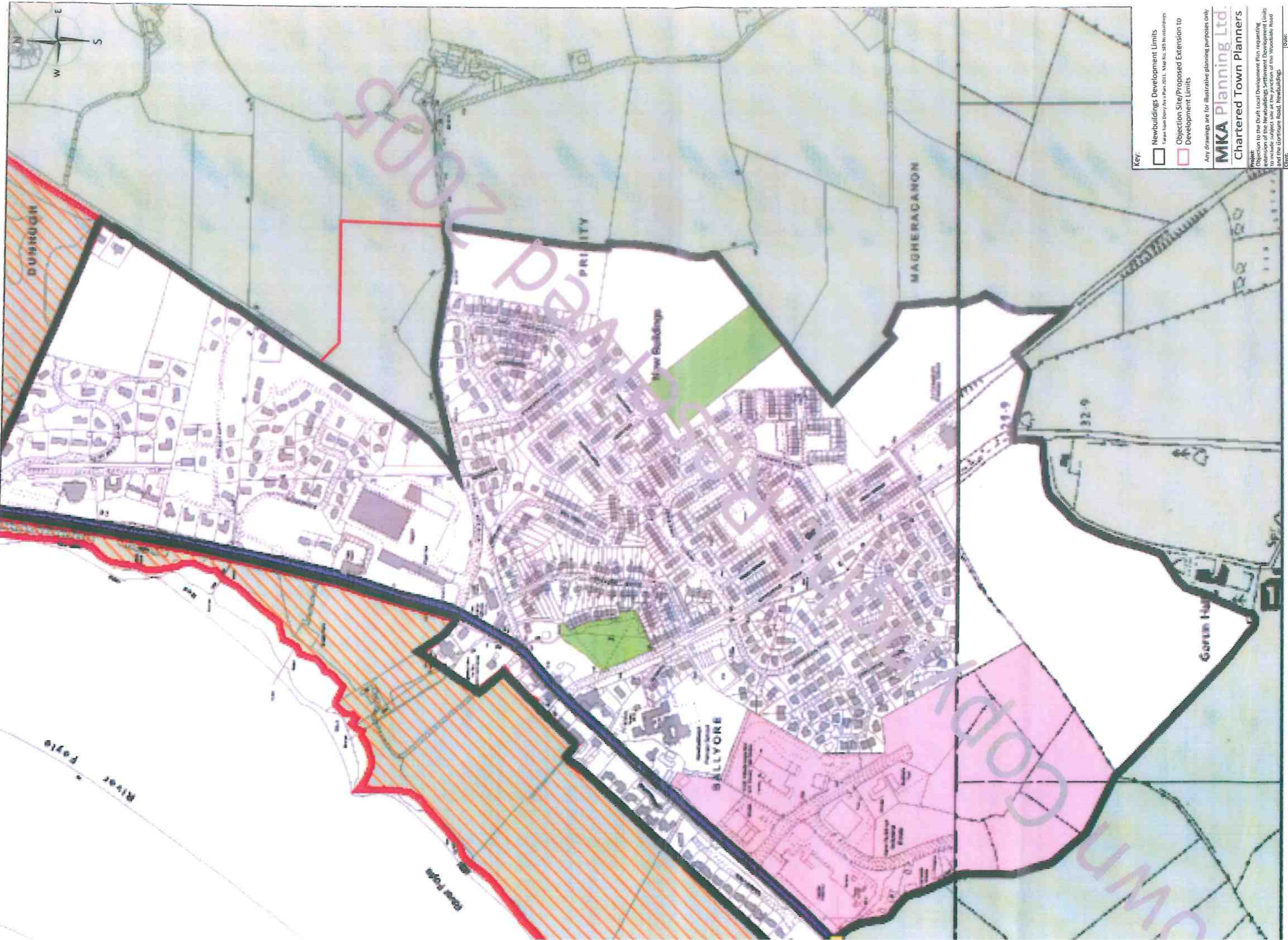
Any drawings are for illustrative planning purposes only

**MKA Planning Ltd.**  
Chartered Town Planners

**Project:** Objection to the Draft Local Development Plan requesting extension of the Newbuildings Settlement Development Limits to include subject site at the junction of the Woodside Road and the Gortinure Road, Newbuildings

<b>Client:</b> Mr Billy Henderson	<b>Date:</b> Jan 2020
<b>Drawing:</b> Settlement Context Plan	<b>Scale:</b> 1:5000 (A3)

17 Clooney Terrace, Naomh, Derry  
t: 028 27 11 551 m: 07 166 615 55  
e: matt@mka.ie



Key:

- Newbuildings Development Limits  
Taken from DDP 2011, Map No. 565 Newbuildings
- Objection Site/Proposed Extension to Development Limits

Any drawings are for illustrative planning purposes only.

**MKA Planning Ltd.**  
Chartered Town Planners

Project:  
Objection to the Draft Local Development Plan requesting extension of the Newbuildings Settlement Development Limits to include subject site at the junction of the Woodside Road and the Gortinure Road, Newbuildings

Client: Mr Billy Henderson  
Date: Jan 2020  
Drawing: Extract of DDP 2011, Map No. 565 Newbuildings  
Scale: 1:2500(A3)  
3rd Floor, Boreac, Waterville, Kerry  
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