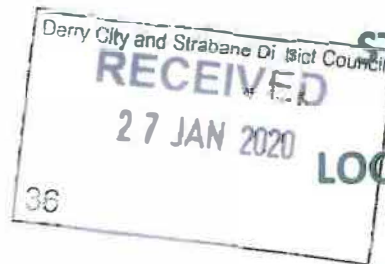


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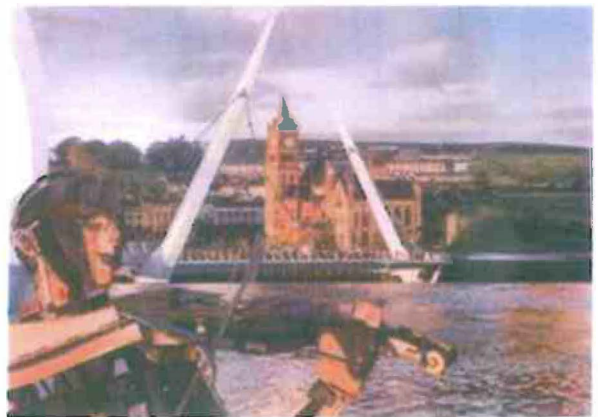


**RE: DERRY CITY &  
STRABANE DISTRICT  
COUNCIL;  
LOCAL DEVELOPMENT  
PLAN 2032  
DRAFT PLAN STRATEGY**

## **Representations to Draft Plan Strategy**

*ON BEHALF OF*

Mr Craig



*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 housing land or net additional social dwellings in Drumahoe.

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 The Strategy to be sound, needs to give consideration to extending the development limits at Drumahoe to meet the identified social housing need up to 2032, which may otherwise 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 Drumahoe in terms of a specific social housing need and a lack of alternative lands.

2.6 We consider these two material factors below.

### **2.7 Local Housing Need.**

2.8 This submission is based on the premise that there is a site specific need for more social housing in the Drumahoe area.

2.9 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**

2.10 Drumahoe 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.

- 2.11 This approach is not without precedent. We are aware that the Council and the NIHE have recently 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.
- 2.12 The Derry City and Strabane Housing Investment Plan 2019-23 identifies a social housing need for 10 units in Drumahoe up until 2023.
- 2.13 There is also likely to be a significant social housing need in Drumahoe over the draft LDP period from 2023 to 2032.
- 2.14 Alternative Lands in Drumahoe.**
- 2.15 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 Drumahoe. 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. 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.
- 2.16 Our examination of these planning permissions clearly indicates that none of these permissions requires any provision of social housing.
- 2.17 The two major housing zonings in Drumahoe in the Derry Area Plan 2011 (DAP) where housing zonings H25 and 26.
- 2.18 H26 has subsequently been fully developed out by the NIHE as the Ardnabrocky Estate along Fincairn Road in Drumahoe for a number of years.
- 2.19 We have also examined at the various planning permissions granted for housing developments in Drumahoe. A plan showing the sites we have examined is included at **Appendix MKA 2.**

- **Site 1.**

Planning permission has recently been granted for residential development on the two undeveloped remaining areas of housing zoning 25, (**Appendix MKA 3**).

- **Site 2.**

Planning permission has also been granted on “white land” nearby at Drumahoe Road which also has no requirement to provide social or affordable housing. We also attach a copy of this permission, (Appendix MKA 4).

- Site 3.

Outline planning permission has been granted for a mixed use development on nearby white land, (Appendix MKA 5).

- Site 4.

Full planning permission has been granted for residential development and the development is partially complete, (Appendix MKA 6).

- Site 5.

Full permission has been granted for residential development on this site and a CLUED Certificate has been granted certifying that a material start has been made, (Appendix MKA 7).

- 2.20 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.
- 2.21 These permissions indicate that while there are significant areas of undeveloped zoned housing land or “white land” with planning permission for residential development within Drumahoe there is no legal requirement on these extant permissions to provide any social or affordable housing.
- 2.22 We were involved in a similar situation in Portstewart in the Northern Area Plan 2015 where the PAC approved a large housing site for social housing along Coleraine Road in Portstewart as the undeveloped housing zonings all had permissions that did not require any provision of social housing.
- 2.23 In these circumstances we believe it is appropriate for Criteria d to be applied and there is clearly a need for additional housing lands to be zoned within the Drumahoe area.

- 2.24 We believe that these particular circumstances in Drumahoe are exceptional and additional land needs to be brought into the settlement and zoned to accommodate this identified social housing need.
- 2.25 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 Craig lands at Fincairn Road, Drumahoe.
- 3.0 Site Specific Considerations.**
- 3.1 In the context of the strategic representations set out above, the LDP, might in future, consider the suitability of the Craig lands, at Fincairn Road, Drumahoe.
- 3.2 The site is located on the northern side of Fincairn Road, it measures 1.83 hectares, and, is situated on the south eastern corner of L'Derry at Drumahoe. We attach a number of plans and maps to identify the site at **Appendix MKA 8.**
- 3.3 The site is an agricultural field, used for grazing purposes, rectangular in shape, with hedgerows defining the boundaries. The objection site is low lying and is significantly lower than the adjoining Fincairn Road. The NI Flood Maps indicate no fluvial or coastal flood plain within the site, (**Appendix MKA 9**).
- 3.4 The site is contiguous with the existing Settlement Development Limit (SDL) on two sides to the south and the west. To the west the objection site adjoins the existing public sector housing estate at Ardnabrocky. The site is a natural extension of the existing NIHE estate at Ardnabrocky and it is clearly a sustainable and accessible location. To the south the site adjoins the existing SDL along the Fincairn Road site frontage. The H25 housing zoning on the opposite side of Fincairn Road rises up sharply to the south and the objection site nestles nicely below this elevated built development.
- 3.5 The objection site is clearly a “notch” site which squares off the existing SDL at Drumahoe defined by the DAP 2011. The objection site physically and visually “rounds off” the existing SDL and lies naturally into the urban form of Drumahoe.
- 3.6 This site is not currently included within the settlement limit of Drumahoe. If zoned, it would meet the identified local social housing need for Drumahoe and provide a high quality housing development which is deliverable in the short to medium term.
- 3.7 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

MKA PLANNING LTD  
Chartered Town Planners

32 Clooney Terrace, Waterside, Derry, BT47 6AR,  
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Appendix 2 Social Housing Need by Settlement 2018-2023

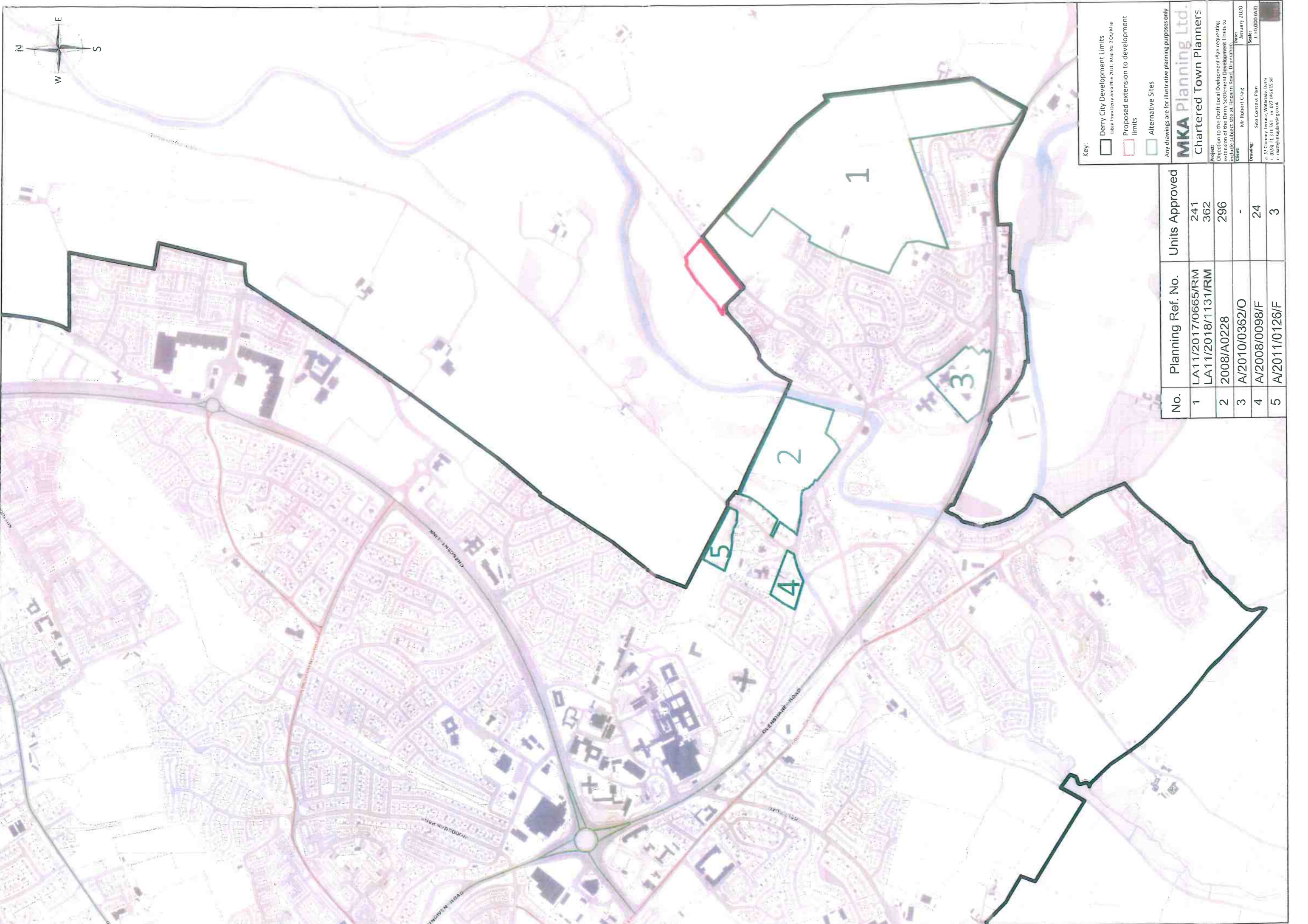
Settlement	Social Housing Need 2018-23
<b>Derry City</b>	
Derry 1/Waterloo Place Westbank	962
The Fountain	0
Derry 3/Collon Terrace Westbank	1,047
Waterside 1	150
Waterside 2	129
Waterside 3	168
Curryneirin	3
Drumahoe	10
Tullyally	4
<b>Derry City Total</b>	<b>2,473</b>
<b>Towns</b>	
Strabane Town	139
<b>Villages</b>	
Ardstraw	0
Artigarvan	0
Ballymagorry	15
Castledearg	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

MKA PLANNING LTD  
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Key:

- Derry City Development Limits  
Taken from Derry Area Plan 2011, Map No. 2 City Map
- Proposed extension to development limits
- Alternative Sites

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 Derry Settlement Development Limits to include subject site at Fincarra Road, Drumahaire.

Client: Mr Robert Craig      Date: January 2020

Drawing: Site Context Plan      Scale: 1:10,000 (A3)

31 Chorney Terrace, Waterside, Derry  
t: (028) 3111551    m: 097 4661536  
e: mka@mkaplanning.co.uk

No.	Planning Ref. No.	Units Approved
1	LA11/2017/0665/RM	241
	LA11/2018/1131/RM	362
2	2008/A0228	296
3	A/2010/0362/O	-
4	A/2008/0098/F	24
5	A/2011/0126/F	3

**Appendix MKA 3**

**MKA PLANNING LTD**  
Chartered Town Planners

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



**APPROVAL OF PLANNING PERMISSION**  
Planning Act (Northern Ireland) 2011

Application No: LA11/2017/0665/RM

Date of Application: 7th July 2017

Site of Proposed  
Development:

Lands situated to the north and east of The Beaches;  
and north east of Old School Field  
Glenshane Road  
Drumahoe  
Country Londonderry (Lands part of H25 housing zoning in  
Derry Area Plan 2011)

Description of Proposal:

Proposed residential development of 241 no dwellings  
comprising a mix of 102 detached; 124 semi-detached and  
15 apartments, associated domestic garages, new right  
hand turn lane; public open space including equipped  
children's play area; all associated landscaping and site  
and access works. (updated drainage assessment, further  
Environmental Information)

Applicant: Braidwater LTD  
Address: 25F Longfield Road  
Eglinton  
bt47 3py

Agent: TSA Planning  
Address: 20 May Street  
Belfast  
BT1 4NL

Drawing Ref: 01 rev 2, 18 rev 2, 19 rev 3, 20 rev 3, 21 rev 3, 22 rev 3, 26 rev 2, 27  
rev 2, 29 rev 2, 30 rev 2, 33 rev 2, 36 rev 2, 37 rev 2, 38 rev 1, 39, 44 rev 2, 45, 46,  
47 rev 2, 48, 49, 50, 53 rev 2, 54 rev 2, 55 rev 2, 56 rev 2, 58 rev 2, 59 rev 1, 63 rev  
2, 64 rev 2, 65 rev 1, 66 rev 1, 67 rev 1, 71 rev 1, 72 rev 1, 73 rev 1, 79 rev 1, 80 rev  
1, 81 rev 1, 82 rev 1, 83 rev 1, 84 rev 1, 88 rev 1, 95 rev 1, 101 rev 1, 103 rev 1, 104  
rev 1, 105 rev 1, 106 rev 1, 107 rev 1, 108 rev 1, 109 rev 1, 111, 112, 113, 114. Date  
stamped 07/07/17, 20/06/18, 22/05/18, 02/07/18 and 31/05/18.

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

**GRANTS 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. The development to which this approval relates must be begun by whichever is the later of the following dates:-
  - i. The expiration of a period of 5 years from the grant of outline planning permission; or
  - ii. The expiration of a period of 2 years from the date hereof.

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

2. The boundary treatments to each dwelling unit and apartment as identified on drawing No's 71 date stamped 28/12/17 and drawing No's 45 and 46 date stamped 07/07/17 shall be completed prior to the occupation of each individual unit hereby approved.

Reason: To secure a quality residential environment

3. Prior to the occupation of the 200th dwelling unit hereby approved, the developer shall provide the proposed public open space, pedestrian links and the local area of play as indicated on the approved plans, drawing no 66 Revision 1 (Landscape Plan) dated 22/5/18.

Reason: To ensure that the public open space, and play area and the pedestrian links are provided in a timely manner for the benefit of the occupiers and existing residents within the H25 zoning, and to aid integration of the development into the local landscape as soon as possible.

4. All existing trees, shrubs and hedges/natural screening on the boundaries of the site and within the site as shown on the landscape drawing no 66 rev 1 and 67 rev 1 date stamped 22/5/18, 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 and to maintain biodiversity value on the site.

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 Department, 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 Department gives its written consent to any variation.





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

6. No Dwellings shall be occupied until a landscape management and maintenance plan has been submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

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

8. The mitigation measures referring to construction phase noise, window and ventilation systems sound reduction performances and also the noise Rating Level from internal site pumping stations or transformers, as described in Section 12.6 of the Noise and Vibration report in the Environmental Impact Statement, shall be implemented, prior to occupation of each dwelling.

Reason: For the protection of the amenity of existing and future residents.

9. Prior to occupation of the proposed dwellings, a verification report shall be forwarded to the Planning Authority evidencing compliance with the window and ventilation systems sound reduction performances described in Condition 8.

Reason: For the protection of the amenity of future residents.

10. Solid acoustic fence barriers with no holes or gaps with ship-lapped or fully overlapping boarding and a surface weight of at least 6kg/m<sup>2</sup> shall be erected as indicated on plan drawing Figure 1.5 of the Environmental Statement Addendum No. 1 submitted by Braidwater Ltd, prior to the occupation of these units.

Reason: To protect amenity from noise

11. Working hours at the site, including deliveries to and from the site, shall be restricted to 0700 to 1900 hours on weekdays, 0700 to 1300 on Saturdays with no work on Sundays. Working hours outside of this regime shall only occur in





exceptional circumstances – of these are known in advance (i.e. not under emergency conditions). In this event, the developer shall contact the Planning Authority in advance to ensure that the works can be completed with minimal impact on sensitive receptors.

Reason: For the protection of the amenity of existing and future residents.

12. The mitigation measures described in Section 2.3.1 – Noise and Vibration and Section 2.5 – Air, of the Construction Environmental Management Plan in Appendix A of the Environmental Impact Statement, shall be implemented prior to commencement on site.

Reason: For the protection of the amenity of existing and future residents.

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

Reason: To prevent pollution of surface waters.

14. Prior to the commencement of the development, a detailed earthworks management plan must be submitted to the Planning Authority in writing, for consultation and approval with Loughs Agency. The plan must include methods of control of run-off from working areas, and mitigating measures to prevent pollution of watercourses, during the construction phase.

Reason: To prevent pollution of surface waters

15. The appointed contractor shall submit a Final Construction Environmental Management Plan, including finalised layout design and site drainage plan to Derry City and Strabane District Council Planning for agreement with SES and NIEA Water Management Unit at least 4 weeks prior to the commencement of any works. This should reflect and detail all the mitigation, and avoidance measures to be employed as outlined in the Environmental Statement (July 2017) and specifically the measures in the Outline Construction Environmental Management Plan (Appendix A).

Reason: To protect River Faughan and Tributaries SAC from adverse impacts during construction by ensuring that the appointed contractor undertaking the work is well informed of all the risks associated with the proposal, is aware of the proposed mitigation measures and contractually obliged to implement them as outlined in the Environmental Statement (July 2017).

16. Only species native to Northern Ireland shall be utilised from the proposed woodland planting list as shown on drawing number 66, date stamped by the Planning Authority 7 July 2017.

Reason: To maintain and enhance the biodiversity value of the site and bat foraging and commuting corridors.





17. All native boundary woodland planting as shown on drawing number 66 rev 1, date stamped by the Planning Authority 22/05/18 shall be completed within the first available planting season after the commencement of works.

Reason: To maintain and enhance the biodiversity value of the site and bat foraging and commuting corridors.

18. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Council 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 Council in writing, in consultation with DAERA and Environmental Health, and subsequently implemented and verified to its satisfaction.

Reason: For the protection of the health of future residents and for the protection of environmental receptors to ensure the site is suitable for use.

19. After completing any remediation works required under condition 18 and prior to occupation of the development, a verification report needs to be submitted in writing to Council and agreed with DAREA and Environmental Health. 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: For the protection of the health of future residents and for the protection of environmental receptors to ensure the site is suitable for use.

20. The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 19 Rev 03 bearing the date stamp 02 July 2018, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

21. The Private Streets (Northern Ireland) Order 1960 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 19 Rev 03, 20 Rev 03, 21 Rev 03 & 22 Rev 03 bearing the date stamp 02 July 2018 and 111 bearing the date stamp 22 May 2018.







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

22. 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 works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No. 19 Rev 03 bearing the date stamp 02 July 2018 and 111 bearing the date stamp 22 May 2018. The Department hereby attaches to the 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.

23. Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993, no buildings, walls or fences shall be erected, nor planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500 mm shall be carried out in verges/service strips determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

24. The area hatched at sites 76-82 on drawing no. 21 Rev 03 bearing the date stamp 02 July 2018 shall be kept clear to provide a level surface no higher than 250mm above the level of the adjoining carriageway to provide adequate visibility splays from the afore mentioned sites. No walls or fences shall be erected, nor hedges nor formal rows of trees or planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500mm shall be carried out within or grown in this hatched area.

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

25. 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 each phase.

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

26. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25)





maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

27. If the finished ground level of the property, within 1.0m of the footway or verge, is greater than 150mm below the finished level of the adjoining footway or verge, a boundary fence or wall shall be provided to a minimum height of 1.1 m above the footway or verge level.

**Reason:** To ensure the safety of pedestrians on the public road.

28. No other development hereby permitted shall be commenced until the existing access to no. 87 Glenshane Road as indicated on Drawing No. 19 Rev 03 bearing the date stamp 02 July 2018 has been permanently closed and the footway / verge properly reinstated to DfI Roads satisfaction.

**Reason:** In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

29. A detailed programme of works and any required / associated traffic management proposals shall be submitted to and agreed by the planning authority, prior to the commencement of any element of road works.

**Reason:** To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety.

30. A Stage 3 and a Stage 4 Safety Audit shall be submitted to and approved by the planning authority and thereafter implemented as agreed. The submission of the Safety Audits shall be carried out in accordance with the requirements stipulated in the current version of HD19 of the Design Manual for Road and Bridges (DMRB).

**Reason:** To provide an assurance that all safety requirements have been implemented.

31. Within 4 months of the date of approval of this application, the Applicant shall submit details of appropriate ducting, cabling and power/data supply to bus stops within the development site to allow for the future connection of 'real time' or 'intelligent' travel information.

**Reason:** To ensure there is a satisfactory means of transmitting data and to minimise disruption to the public road network and for the convenience of road users.

#### Informatives

1. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under





other prevailing legislation as may be administered by the Council or other statutory authority.

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

3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. The application site is subject to an Article 40/122 agreement and concept master plan approved for application A/2001/0165/O.

5. NI Water

(i) This application will require a Network Capacity Check (Water) to assess the impact on the existing watermains network.

(ii) Foul discharge from development lands (Area 1, 2 and 3) to discharge as follows:  
Area 1: Foul: approx 32m of foul sewer requisition to existing public foul sewer in Old School Field (subject to confirmation of proposed discharge invert level from Area 1)  
Area 2 and Area 3: Foul should discharge to public foul sewer on Glenshane Road  
Your attention is drawn to important Note (vii) below regarding construction in close proximity to existing public water and sewerage services

(iii) Storm discharge from development lands (Area 1, 2 and 3) to discharge as follows: Area 1: Storm: approx 170m of storm sewer requisition upgrade required to accommodate greenfield runoff from Area 1, Area 2 & Area 3 Storm: Existing 1050mm diameter public storm sewer within site can accommodate full bore discharge from these 2 areas (subject to site design levels). Remaining Area 2 storm can be accommodated at greenfield runoff to existing 375mm public storm sewer within the Beeches.

Area 1 – Approved discharge rate of 30 l/s for 1 in 100 year storm event  
Area 2 – Approved discharge rate of 75 l/s for 1 in 100 year storm event  
Area 3 – Approved discharge rate of 321 l/s for 1 in 100 year storm event

(iv) The receiving Waste Water Treatment facility (Culmore WwTW) has sufficient capacity to serve this proposal.

(v) All appropriate application pro forma for both water and sewerage services may be obtained at [www.niwater.com](http://www.niwater.com), under "Services for Developers" or on request at the above address.

(vi) Where a public foul / storm sewer is indicated as being available, this does not infer that all of the lands can be served by gravity and as such it is the responsibility of the applicant to establish if pumping may in part or whole be necessary. Additionally, where a public foul / storm sewer is located within lands not in the applicant's ownership, the prior formal consent of the private land owner must be





received by NI Water, prior to any "Application to Connect to a Public Sewer" being considered by NI Water.

(vii) Where a public water main is indicated as being available, this infers only that a minimum pressure of 1.5 BAR or 9 litres/ minute is available at the curtilage of the lands. On high rise developments it will be the responsibility of the applicant to establish if private boosting of water pressure within the subject lands; ie, at no cost to NI Water, will be necessary.

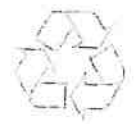
Additionally and as in (ii) above where a Public Watermain is located within lands not in the applicant's ownership, the prior formal consent of the private land owner must be received by NI Water, prior to any "Application to Connect to a Public Watermain" being considered by NI Water.

(viii) Where drainage systems within any development are intended to be offered to NI Water for adoption, ie, under an Article 161 Agreement, (or retrospectively under an Article 159 Agreement), foul and storm drainage systems within and serving same must be designed and provided using separate systems. More overly storm water attenuation solutions; ie, specifically the use of over sized storm water pipes, can only be considered on the basis that all other conventional solutions have been explored and eliminated, in co ordination with the Rivers Agency. Where an Article 161 Agreement will apply, the proposed foul and storm water drainage systems within and serving the development must have the formal approval of NI Water, prior to any application(s) to make connection(s) to the public drainage network(s) being considered. Any drainage systems which may not be offered to NI Water for adoption; eg, those serving new schools, hospitals, etc, must also be designed and provided on separate foul and storm water systems. Under no circumstances will storm water be permitted to enter a public foul sewer.

(ix) On larger developments and / or where specific network inadequacies already exist, an applicant may as part of a PDE response be required to formally request a public water and / or drainage Network Capacity Check (NCC).

(x) Where there is an inadequate receiving public foul drainage network and /or waste water treatment capacity, the applicant will not be permitted to make connection to the public foul drainage network until appropriate upgrading works have been completed. The applicant may also be required to construct a temporary WwTW, with the prior consent of DOE(NI) - Environment & Heritage Service. In certain circumstances the applicant may be required to construct a permanent WwTW, which may or may not be adoptable by NI Water

(xi) Building over a public water main is not permitted and only in exceptional circumstances may building over a public sewer be permitted. Where realignment of part or all of a public sewer is deemed necessary, this may in certain instances be accommodated as part of an Article 161 Agreement. In all other instances formal application to divert a public sewer, together with detailed proposals of same, must be forwarded to the above address. Current criteria regarding construction in proximity to public water mains and sewers, prohibits any foundations within 4m and





3m either side of same respectively, other than in respect of larger diameter trunk water mains/ sewers, 300mm diameter and above, where a greater minimum clearance of 6m either side of same will be necessary and site specifically requested. All works associated with the realignment of any public sewer may only be take place with the prior approval of and at no cost to NI Water

(xii) Where foul water discharges from sites are other than purely domestic, NI Water - Trade Effluent Section must be contacted, in order to establish if a Trade Effluent Agreement may be applicable.

(xiii) Grease traps and petrol interceptors must be used where appropriate or specifically indicated as being required. The above information will only be valid for a maximum period of 12 months and should formal approval to make connections to the public water and sewerage networks not have been granted by NI Water within this timescale, a further PDE will require to be submitted to ensure that capacity currently identified as being available to serve this proposal, still exists.

#### 6. NIEA Comments

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.

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

The applicant should ensure that the management of all materials onto and off this site are suitably authorised through the Waste Management Regulations (NI) 2006 and/or the Water Order (NI) 1999. This should be demonstrated through a Site Waste Management Plan (see <http://www.nibusinessinfo.co.uk/content/meet-construction-sitewaste-management-plan-swmp-obligations>.)

RU recommends that the applicant consults with the Water Management Unit in NIEA regarding any potential dewatering that may be required during the development including the need for a discharge consent. Discharged waters should meet appropriate discharge consent conditions.

Once a contractor has been appointed, the Outline Construction Environmental Management Plan (CEMP) should be finalised and submitted to NIEA Water Management Unit, at least 4 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment.

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

Dated: 6th December 2018

Authorised Officer





## APPROVAL OF RESERVED MATTERS

Planning Act (Northern Ireland) 2011

Application No: LA11/2018/1131/RM

Date of Application: 29th November 2018

Site of Proposed  
Development:

Lands accessed from Fincairn Road and Glaishtane Road  
directly east of Copperthorpe housing development and  
c.270 meters north of The Beeches  
Drumahoe  
Co. Londonderry

Description of Proposal:

**Proposed residential development of 362 No. dwellings  
comprising a mix of 61 No. detached; 249 No. semi-  
detached, 32 No. Quad bungalows and 21 No. Apartments,  
associated domestic garages, public open space including  
equipped children's play area and all associated  
landscaping and site and access works.**

Applicant: Braidwater Ltd  
Address: 25F Longfield Road  
Eglinton  
Derry/Londonderry  
BT47 3PY

Agent: TSA Planning  
Address: 20 May Street  
Belfast  
BT1 4NL

Drawing Ref: 01 Revision 2, 02 Revision 2, 03 Revision 3, 08 Revision 2, 09  
Revision 2, 10 Revision 2, 11 Revision 2, 14 Revision 2, 15 Revision 2, 16 Revision  
2, 17 Revision 2, 18 Revision 2, 19 Revision 2, 20 Revision 2, 21 Revision 2, 22  
Revision 1, 23 Revision 1, 24 Revision 1, 26 Revision 2, 28 Revision 2, 29 Revision  
2, 30 Revision 2, 31 Revision 2, 32 Revision 2, 33 Revision 2, 34 Revision 2, 35  
Revision 2, 36 Revision 2, 37 Revision 2, 38 Revision 2, 39, 40, 41, 42, 43, 44, 45,  
46, 47, 48, 49, 50, 51, 52 Revision 1, 53, 54, 55, 56 Revision 1, 57, 58, 60, 61, 62,  
63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74 Revision 2, 75 Revision 2, 76 Revision 2, 77  
Revision 1, 78, 79, 80, 81, 82 Revision 1, 83 Revision 1, 87

Outline Application Number: A/2001/0165/O





With respect to the above proposal for development, being matters reserved in the outline planning permission specified above, The Council in pursuance of its powers under the above-mentioned Act and in accordance with your application

### HEREBY APPROVES

the said reserved matters subject to compliance with the following conditions which are imposed for the reasons stated.

1. The development to which this approval relates must be begun by the expiration of a period of 2 years from the date hereof.

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

2. Development shall not commence on site until a suitable proposal for the disposal of foul sewerage from the site is submitted to and approved in writing by the Planning Authority.

Reason: To ensure adequate foul sewer provision for the site.

3. The boundary treatments to each dwelling unit and apartment as identified on drawing No's 08 Revision 2, 09 Revision 2, 10 Revision 2 and 11 Revision 2 date stamped 09 October 2019 and drawing no 03 Revision 3 date stamped 18 October 2019 shall be completed prior to the occupation of each unit hereby approved.

Reason: To secure a quality residential environment

4. Prior to the occupation of the 200th dwelling unit hereby approved, the developer shall provide the proposed public open space, pedestrian links and the local area of play as indicated on the approved plans, drawing no 03 Revision 3 date stamped 18 October 2019.

Reason: To ensure that the public open space, and play area and the pedestrian links are provided in a timely manner for the benefit of the occupiers and existing residents within the H25 zoning, and to aid integration of the development into the local landscape as soon as possible.

5. All existing trees, shrubs and hedges/natural screening, on the boundaries of the site and within the site as shown on the landscape drawing no 03 Revision 3 date stamped 18 October 2019 shall be permanently retained unless otherwise agreed in writing with the Council.

Reason: To ensure the development integrates in a satisfactory manner into the locality and to maintain biodiversity value on the site.

6. 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 Department, 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 Department gives its written consent to any variation.

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

7. The open space areas referred to in condition 4 shall be managed and maintained in accordance with the agreed Landscape Management and Maintenance Plan date stamped received by Council on 15 October 2019.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

8. The appointed contractor shall submit a final Construction Method Statement (CMS) to the planning authority, for consultation and agreement with NIEA-WMU and Shared Environmental Services, prior to the commencement of any works. The CMS must reflect and detail all mitigation measures set out in pp 19-25 of the oCEMP (Appendix A of the amended EIA, uploaded to the Planning Portal 13/06/2019). The final CMS shall also include drawings illustrating a suitable 10 metre buffer between all re-fuelling/storage/cement mixing areas and the adjacent watercourse. The approved CMS shall be implemented strictly in accordance with the approved details, unless otherwise agreed in writing by planning authority.

Reason: To prevent any adverse effect to any designated European Site from proposal.

9. If during the development works, new contamination or risks to the water environment are encountered that has not previously been identified, the 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, in conjunction with Environmental Health and DAERA's Regulation Unit, and subsequently implemented and verified to its satisfaction.

Reason: For the protection of the health of future residents and protection of environmental receptors to ensure the site is suitable for use.

10. After completing any remediation works under Condition 9 and prior to occupation of the development, a verification report shall be submitted in writing and agreed with the 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 shall





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.

Reasons: For the protection of the health of future residents and protection of environmental receptors to ensure the site is suitable for use.

11. Prior to the occupation of each dwelling unit, the mitigation measures referring to: construction phase noise; window and ventilation systems sound reduction performances [RTra (or RW + Ctr)] in the 4 designated zones and; the Rating Level of no greater than 36dB LA, at the nearest noise sensitive dwelling, from internal site pumping stations or transformers, as described in Section 12.6 of the Noise and Vibration report in the Environmental Impact Statement, shall be implemented.

Reason: For the protection of the amenity of future residents.

12. Prior to occupation of the proposed dwellings, a verification report shall be forwarded to the Planning Authority evidencing compliance with the window and ventilation systems sound reduction performances described in Condition 11.

Reason: For the protection of the amenity of future residents.

13. Working hours at the site, including deliveries to and from the site, shall be restricted to 0700 to 1900 hours on weekdays, 0700 to 1300 on Saturdays with no work on Sundays. Working hours outside of this regime shall only occur in exceptional circumstances if these are known in advance (i.e. not under emergency conditions). In this event, the developer shall contact the Planning Authority in advance to ensure that the works can be completed with minimal impact on sensitive receptors.

Reason: For the protection of the amenity of existing and future residents.

14. Prior to the commencement of the development the mitigation measures described in Section 2.3.1 – Noise and Vibration and Section 2.5 – Air, of the Construction Environmental Management Plan in Appendix A of the Environmental Impact Statement, shall be implemented.

Reason: For the protection of the amenity of existing and future residents.

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

Reason: To prevent pollution of surface waters.

16. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Planning Authority in





consultation with Historic Environment Division, Department for Communities.  
The POW shall provide for:

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

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

17. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 16.

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

18. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 16. These measures shall be implemented and a final archaeological report shall be submitted to the Planning Authority within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

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

19. The appointed contractor shall submit a Final Construction Environmental Management Plan, including finalised layout design and site drainage plan to Derry City and Strabane District Council Planning for agreement with SES and NIEA Natural Environment Division at least 4 weeks prior to the commencement of any works. This should reflect and detail all the mitigation, and avoidance measures to be employed as outlined in the Environmental Statement and specifically the measures in the Outline Construction Environmental Management Plan (Appendix A).

Reason: To protect River Faughan and Tributaries SAC from adverse impacts during construction by ensuring that the appointed contractor undertaking the work is well informed of all the risks associated with the proposal, is aware of the proposed mitigation measures and contractually obliged to implement them as outlined in the Environmental Statement (July 2017).

20. The lighting on site shall be installed as indicated on the Outdoor Lighting Reports date stamped received 19th June 2019.

Reason: To Protect Bats





21. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on drawing no. 74 Rev 02, 75 Rev 02 & 76 Rev 02 bearing the date stamp 09 October 2019.

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

22. 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 works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No. 74 Rev 02 bearing the date stamp 09 October 2019. The Department hereby attaches to the 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.

23. Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993, no buildings, walls or fences shall be erected, nor planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500 mm shall be carried out in verges/service strips determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

24. The area hatched at sites 245A-C-249, 312-313, 340-341, 350, 367-375, 389, 407-409, 414-417, 452-457, 478-489, 495-496, 539-542, 556-559, 566-570 & 597-599 on drawing no. 74 Rev 02, 75 Rev 02 & 76 Rev 02 bearing the date stamp 09 October 2019 shall be kept clear to provide a level surface no higher than 250mm above the level of the adjoining carriageway to provide adequate visibility splays from the afore mentioned sites. No walls or fences shall be erected, nor hedges nor formal rows of trees or planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500mm shall be carried out within or grown in this hatched area.

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

25. 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 each phase.

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

26. The access gradients to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

27. If the finished ground level of the property, within 1.0m of the footway or verge, is greater than 150mm below the finished level of the adjoining footway or verge, a boundary fence or wall shall be provided to a minimum height of 1.1 m above the footway or verge level.

Reason: To ensure the safety of pedestrians on the public road.

28. The development hereby permitted shall be carried out in accordance with stamped approved drawings no:

01 Revision 2, 02 Revision 2, 08 Revision 2, 09 Revision 2, 10 Revision 2, 11 Revision 2, 14 Revision 2, 15 Revision 2, 16 Revision 2, 17 Revision 2, 18 Revision 2, 19 Revision 2, 20 Revision 2, 21 Revision 2, 26 Revision 2, 28 Revision 2, 29 Revision 2, 30 Revision 2, 31 Revision 2, 32 Revision 2, 33 Revision 2, 34 Revision 2, 35 Revision 2, 36 Revision 2, 37 Revision 2, 38 Revision 2, 74 Revision 2, 75 Revision 2, 76 Revision 2, 77 Revision 1, 82 Revision 1, 83 Revision 1 date stamped 09 October 2019  
03 Revision 3 date stamped 18 October 2019  
22 Revision 1, 23 Revision 1, 24 Revision 1, 52 Revision 1, 56 Revision 1, 78, 79, 80, 81, 87 date stamped 11 June 2019.  
39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 57, 58, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72 date stamped 29 November 2018

### Informatives

1. The application site is subject to an Article 40 / 122 Agreement and Concept Master Plan approved for application A/2001/0165/O.

2. DFI Roads comments

The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992

Under the above Orders the applicant is advised that before any work shall be





undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the DfI Roads to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

The developer, future purchasers and their successors in title should note that DfI Roads will not adopt any 'street' as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 until such time an Article 161 agreement between the developer and NI Water for the construction of foul and storm sewers including any attenuation holding tanks and discharge pipes has been fully implemented and works upon completion approved by NI Water.

Separate approval must be received from DfI Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

The service strips coloured green with black hatching on the approved plan have been determined as lands to be adopted by the Department for Infrastructure. It is, therefore, essential that vendors inform house purchaser of their limited rights within such strips. It is strongly recommended that the developer does not sell or lease the land from the service strips as parts of housing plots. If land for service strip is to be sold or leased to house purchasers the vendor must insert in the deeds the following clause or covenant:-

The purchaser hereby covenants with the vendor that he/she, the purchaser, and his/her successors in title will not at any time hereafter erect or construct any building wall or fence or plant any tree or shrub on the strip of land shown hatched on the approved Private Streets Determination drawing plan annexed hereto, nor do or suffer to be done therein or thereon any act, matter or thing whereby the cover of soil over or the support of the pipes, wires and/or cables laid in the said strip of land shall be altered or which may render access thereto more difficult or expensive and shall understand that the road authority and statutory undertakers have unencumbered right of access to the said strip of land.

The developer, future purchasers and their successors in title should note that the access ways and parking areas indicated on the approved drawings as 'Road 5 Private Drive' & '7A Private Drive' are, and will remain, private. The Department has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Responsibility for the access ways and parking areas rests solely with the developer.

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Section, Marlborough House, Central Way, Craigavon



BT64 1AD. The Applicant is advised to contact DfI-Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

It is a DfI Roads 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

All construction plant and materials shall be stored within the curtilage of the site.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is 1 Crescent Road Londonderry BT47 2NQ. A monetary deposit will be required to cover works on the public road.

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 DfI Roads drainage system.

### 3. NI Water

Public water supply within 20m of your proposal. A network capacity check has confirmed there is available capacity within existing network to serve this proposal. Application to NIW is required to obtain approval to connect.

A network capacity check is required to confirm current status of existing foul sewerage network. This NCC cannot be carried out until the Derry Drainage Area Plan model has been built and verified. The target date for model build and verification is Jan 20. The NCC will be carried out subsequent to delivery of verified model. Anticipated completion of NCC would be Spring 2020. NIW acknowledge that





due to the aforementioned, confirmation of capacity status of the receiving catchment is still some time away.

A surface water drainage solution has been agreed with applicant's drainage consultant. Through discussions with NI Water surface water discharge rates have been approved on the basis that the drainage solution is carried out under an Article 161 submission and an Article 154 requisition for the required sewerage infrastructure.

There is available capacity in the receiving waste water treatment works

To ensure compliance with the Water and Sewerage Service (NI) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), consultation with NIW is essential at an early design stage with regard to the following matters:

The water requirements for your proposal may be eligible for the provision of a public watermain if it will serve more than 1 property (1 property if accessed directly from a public road / area) and each property will have an individual supply direct from the proposed public watermain under Article 76 of the above order.

From the 23rd May 2016 the Developer must enter into an Agreement for Adoption of the Sewers under Article 161 of the above order. They must be designed to meet the criteria as set out in the current Sewers for Adoptions specification. A connection to the public sewer will not be permitted until such times as the Article 161 Agreement has been authorised by NIW.

The applicant is advised to contact NIW Waterline on 03457 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 Waterline on 03458 770002.

No connection should be made to the public sewer from 23rd May 2016, in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), until the mandatory Sewer Adoption Agreement has been authorised by NIW.

A formal water / sewer connection application must be made for all developments, including those where it is proposed to re-use existing connections.

All services within the development should be laid underground.

Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland). Applicants should contact NI Water's Water Fittings Regulations team via [waterline@niwater.com](mailto:waterline@niwater.com) if they have any queries.







#### 4. DfI Rivers comments

The internal storm drainage system is to be adopted by Northern Ireland Water according to section 3.3 of the Revised Drainage Assessment. According to the Agreement for Adoption of Development Sewers, Lateral Drains and Associated Works communicating with a public sewer in a New Development (Article 161) Guidance Notes April 2017, the completed application and accompanying drawings, calculations etc, will be checked for compliance with the requirements of the 'Sewers for Adoption (NI) Current Edition' by Northern Ireland Water.

Details of how runoff from the site will be controlled by a stormwater attenuation system and safely disposed of at limited rates at 6 locations supported by relevant correspondence from DfI Northern Ireland Water has been submitted as part of the drainage assessment. Therefore, DfI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions.

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 DfI Rivers, 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.

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.

## 5. Environmental Health Comments

### Radon

The developer should refer to the advice in Section 11 of the Environmental Statement in relation to protection from radon gas, specifically that 'basic protection measures' are adhered to for all houses as detailed in the BRE211 Publication and also the advice in Table 11.3 Operational Phase Effects for Zone 1 and Zone 2 protection measures.

The developer should refer to the Building Regulations (NI) 2012 Guidance Technical Booklet C 'Site Preparation and Resistance to Contaminants and Moisture, October 2012'. Section 3 provides further information on the level of protection required and directs to the Building Research Establishment (BRE Reports) which provide detailed guidance on protective measures relevant to new dwellings in NI).

Technical Booklet C can be accessed at: <http://www.buildingcontrol-ni.com/regulations/technical-booklets>

### Air quality

The EHS would strongly recommend that consideration should be given, as suggested in the Environmental Statement, to the application of good design and good practice measures for example, cycle parking provisions, encouraging the uptake of sustainable modes of transport and also a Travel to Work Plan to be prepared which seeks to reduce vehicle trips made by construction workers.

## 6. Historic Environment Division

Please refer to the HED guidance document Development and Archaeology: Guidance on Archaeological Works in the Planning Process which contains advice on how to fulfil the requirements of the archaeological conditions attached to your planning approval.

Please allow sufficient time in advance of the commencement of site works for the agreement of the programme of archaeological work document with the planning authority and for your archaeological consultant to obtain an archaeological excavation licence. For guidance on the preparation of the programme of archaeological work please contact:

Historic Environment Division - Heritage Development & Change Branch  
Ground Floor  
9 Lanyon Place  
Belfast





BT1 3LP

Tel: 02890 823100

Email: HEDPlanning.General@communities-ni.gov.uk

Quote reference: SM11/1 LDY 14: 61 and LA11/2018/1131/RM

## 7. Water Management Unit Comments

Water Management Unit would direct the attention of the applicant / agent to all the Agency's Standing Advice guidance documents. All DAERA Standing Advice documents are available at: <https://www.daera.ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environmentincluding-groundwater-and-fisheries>

The following DAERA Standing Advice in relation to the aquatic environment will be particularly relevant to this application:

- DAERA Standing Advice on Multiple Dwellings
- DAERA Standing Advice on Pollution Prevention Guidance
- DAERA Standing Advice on Sustainable Drainage Systems
- DAERA Standing Advice on Discharges to the Water Environment
- DAERA Standing Advice on Culverting (if applicable)

Water Management Unit would request that any future consultation clearly demonstrate the following:

- Clearly demonstrate how surface water will be dealt with at the site during both the construction phase and operational phases.
- Clear details of any proposed works in, near or liable to affect a watercourse including whether or not it is proposed to culvert a watercourse and where the length and positioning of any culvert should be identified.
- Compliance with all the relevant precepts contained in DAERA Standing Advice on Pollution Prevention Guidance
- Details of how foul sewage will be disposed of from any welfare facilities.

If after scoping their proposal against the standing advice the applicant requires proposal specific advice then Water Management Unit will be happy to provide comment at that stage.

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. Regulation Unit

The purpose of the Conditions 9 and 10 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development





and enclose of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.

The applicant should ensure that the management of all waste materials onto and off this site are suitably authorized through the Waste and Contaminated Land (Northern Ireland) Order 1997, the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Water Order (Northern Ireland) 1999. Further information can be obtained from:

<https://www.daera-ni.gov.uk/articles/waste-management-licensing>  
<https://www.daera-ni.gov.uk/topics/waste/waste-management-licensing-exemptions>  
<https://www.daera-ni.gov.uk/articles/regulating-water-discharges>

RU recommend that the applicant consult with the Water Management Unit within the NIEA regarding any potential dewatering that may be required during the redevelopment works including the need for discharge consent. Discharged waters should meet appropriate discharge consent Conditions.

RU recommend that the applicant consult with the Water Management Unit within the NIEA regarding any potential dewatering that may be required during the redevelopment works including the need for discharge consent. Discharged waters should meet appropriate discharge consent Conditions.

RU Land & Groundwater Team recommend that the applicant considers the production of a Site Waste Management Plan (SWMP) for this proposed development. SWMPs are promoted as an example of best practice in the construction industry and a SWMP is a document that describes, in detail, the amount and type of waste from a construction project and how it will be reused, recycled or disposed of. Following the SWMP procedure could help to reduce the amount of waste produced and will help manage waste more effectively. Further information can be obtained from:

<http://www.netregs.org.uk/environmental-topics/waste/more-storage-handling-transportof-waste/site-waste-management-plans/site-waste-management-plans-swmp/>  
<https://www.nibusinessinfo.co.uk/content/what-site-waste-management-plan-shouldcontain>

#### 9. Natural Environment Division comments

The applicant should refer and adhere to the precepts contained in Standing Advice Note No. 4. Pollution Prevention Guidance, 5. Sustainable Drainage Systems and 11. Discharges to the Water Environment. 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 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 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 Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

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:

- a) kill, injure or take any wild bird; or
- b) take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- c) at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- d) obstruct or prevent any wild bird from using its nest; or
- e) take or destroy an egg of any wild bird; or
- f) disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- g) 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 or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1 March and 31 August.

#### 10. Loughs Agency comments

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.



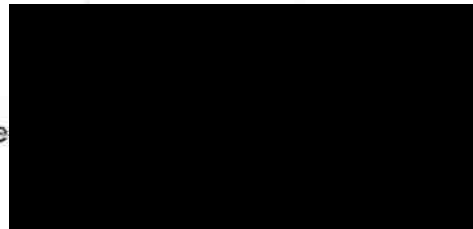
The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

11. 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.

12. 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.

13. When making this decision Council has taken into consideration environmental information within the terms of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.

Dated: 28th November 2019. Authorised Officer



# Appendix MKA 4



MKA PLANNING LTD  
Chartered Town Planners

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Tel: (028) 71 311551 Fax: (028) 71 313404

# Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
F: 028 9031 2536  
E: info@pacni.gov.uk

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**Appeal Reference:** 2008/A0228  
**Appeal by:** D & A Properties Ltd against the refusal of full planning permission  
**Development:** Residential housing development  
**Location:** Drumahoe Industrial Estate, Drumahoe Road, Londonderry  
**Application Reference:** A/2005/0997/F  
**Procedure:** Informal hearing on 19 March and 28 May 2010  
**Decision by:** Commissioner George Scott, dated 31 January 2011

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## Decision

1. The appeal is allowed and outline planning permission is granted subject to the conditions set out below.

## Reasoning

2. The main issues in this appeal are:
  - loss of industrial land;
  - quality of the residential development proposed;
  - provision of a safe access to the site; and
  - provision of a Transport Assessment that evaluates and mitigates against the impacts of the development.
3. The appeal site comprises 7.68 hectares of cleared and vacant land that previously housed a number of industrial type buildings, the largest of which was occupied by Desmond & Sons Ltd. The Department claimed that Desmond's utilised the site as its HQ warehouse and distribution centre for its clothing manufacturing business, thereby falling within the definition of Class B4 of the Planning (Use Classes) Order (NI) 2004. The Appellant, however, argued that it was a Class B3 use as an element of manufacturing took place and consequently the main policy context was provided by Planning Policy Statement 4: Industrial Development (published in March 1997). In contrast the Department sought to rely on draft Planning Policy Statement 4: Industry, Business and Distribution (published in January 2003) because it specifically addresses storage uses. It is clear to me, though, that Planning Policy Statement 4: 'Planning and Economic Development' (PPS 4), as published in November 2010, provides the determining policy context. PPS 4 deals with both industrial and storage uses and whilst this document was published after the application was refused by the Department it is the policy that is in place and prevailing at the time of this appeal determination.



4. The appeal site is not zoned for a specific purpose in the Derry Area Plan 2011 (DAP). However, Policy PED 7 of PPS 4 deals with the situation where there is a development proposal that would result in the loss of an existing Class B2, B3 or B4 use to another use. The policy states that permission will only be granted where one of seven listed exceptions arises. Although the policy head note only refers to existing uses (my emphasis) the justification and amplification text in paragraph 5.32 indicates that:

“planning permission will not normally be granted for the change of use, or the redevelopment for other uses, of unzoned sites or premises in settlements last used (my emphasis) for industrial and storage and distribution purposes...”

Clearly the explanatory text sets a higher requirement than the policy head note in referring to the ‘last use’ as opposed to the ‘existing use’ of the site, as set out in the head note. It is an established principle that where there is tension between the explanatory text and the policy head note greater weight will normally be attached to the latter, as it is the head note that comprises and determines planning policy.

5. All previous buildings on the site have been demolished and cleared from the site. As the Appellant has pointed out, in drawing comparison with appeal decision 2006/E013, the removal of those buildings has put to an end the right to the existing use of the land, which was in operation before the buildings were taken down. The removal of the buildings has also removed any use rights associated with them. Accordingly, planning permission would be required to put any of the building operations back in place or to use the land for economic development or any other purpose. The result of the Appellant’s actions in clearing the site, whether deliberate or inadvertent, is that there is no existing industrial or storage use on the site. Consequently, the proposal to develop the appeal site for residential purposes is not in conflict with or at variance with Policy PED 7 of PPS 4. Given that there is no specific zoning or requirement in the DAP to retain the land for industrial or economic development purposes there is no policy basis to support the stated preference of objectors and the Department that the land should remain in use for employment purposes rather than be developed for housing. The basis of the Department’s first reason for refusal and concerns of the objectors cannot therefore be sustained.
6. The application submitted to and determined by the Department sought full planning permission for a residential housing development of some 296 units. I agree with the Department that the design details and layout of the application scheme fail to respect the site context. The scheme does not provide the quality of residential development sought by Policy QD 1 of Planning Policy Statement 7: Quality Residential Environments (PPS 7), Development Control Advice Note 8: Housing in Existing Urban Areas and the Department’s Design Guide Creating Places-Achieving Quality in Residential Developments. Recognising the concerns expressed by the Department the Appellant requested that the application be changed to an outline proposal, seeking only permission in principle at this stage with a view to submitting a revised housing layout and design at a later date.

7. Notwithstanding the Department's reservations on the matter I agree with the Appellant that this course of action would not significantly alter the nature of the proposal. No enlargement of the site is proposed and the proposal remains that of one for residential development. Third party interests would not be prejudiced as I have already addressed the principle of the loss of this land for industrial/business use in respect of the first reason for refusal. Other concerns expressed by objectors remain before me for consideration. If an outline approval were to be granted a further application would be required setting out the detailed design and layout of any subsequent housing scheme. As appropriate, the Department could invite third parties to assess and make representations on the details of such a scheme. Accordingly I am satisfied that amending the application to one seeking outline rather than detailed permission is an acceptable and appropriate course of action. Within the particular circumstances of this case I find that the second reason for refusal, relating to the quality of the residential development proposed, has not been sustained.
8. The Department accepted that provision of a safe and adequate means of access into and out of the site was physically possible, as demonstrated by the approval for the food store on the adjoining land to the SE (A/2005/0568/F). The issue of concern to the Department was that the detailing of the plans submitted with the scheme did not adhere to the requirements of Policy AMP 2 of PPS 3- Access, Movement and Parking and the detailed provisions of DCAN 15 'Vehicular Access Standards'. Given that the proposal is now seeking outline planning permission conditions can be attached requiring the submission of plans detailing the geometric requirements identified by the Department, including provision of a right turn lane into the site from Drumahoe Road. The third stated reason for refusal has not, therefore, been sustained.
9. A revised Transport Assessment (TA) was provided by the Appellant for the second hearing on 28 May 2010 in response to concerns expressed by the Department about the completeness of the TA submitted with the Statement of Case. Traffic entering or leaving the site can gain access to or from Glenshane Road by three alternative means: namely via Drumahoe Road/Daly's Brae to the north; the Church Road/Church Brae underpass to the west; or the Drumahoe Road/Glenshane Road junction to the south. While the Department expressed concern about potential overloading of all three junctions arising from the development it agreed that, in light of the revised TA, mitigation measures would only be required for the southern junction of Drumahoe Road with Glenshane Road. The modelling and analysis provided by the Appellant supports this conclusion but the TA fails to identify any means of mitigation to address the issue.
10. Given that the application status is changed to an outline proposal I agree with the parties that the issue of mitigation measures can be dealt with by means of a negative condition requiring the implementation of an agreed scheme prior to the commencement of development on the site. The form and scale of the mitigation measures required will be determined in no small measure by the scale and form of development advanced with any future application. Accordingly the additional reason for refusal advanced by the Department, with regard to the lack of provision of a suitable TA and the general concerns raised by objectors in relation to traffic generation and safety, have not been sustained.

11. No substantive evidence was provided to suggest that the site is contaminated. If asbestos present in any of the buildings it has subsequently been removed with the clearance of the site. The evidence from Northern Ireland Water was that the Drumahoe Waste Water Treatment Works was nearing its capacity but that there was a capital works programme to upgrade the works. It is therefore necessary, in the interests of public health, to apply a condition restricting occupation of the site until this work has been completed to the satisfaction of the Department.
12. Since I agree with the Department that the design approach to the development of this site for residential purposes needs to be looked at afresh it is not appropriate to require the development to adhere to the concept master plan advanced in the Appellant's evidence. Nor is it necessary to stipulate the type or number of housing units that are likely to be permissible at this stage. Any subsequent submission will have to adhere to prevailing design policy and it is not necessary to stipulate this in conditions. Given the variation in levels within the site and the rising nature of the land towards the rear of the properties on Ardrough Road and in the western section of the site onto Drumahoe Road, it is necessary to impose a condition seeking the submission of detailed site levels in any future submission. Conditions are required to secure landscaping of the site and its future maintenance, the details of which can be submitted with any subsequent proposal.
13. Having found that none of the reasons for refusal or concerns of the objectors have been sustained, the appeal succeeds.

#### Conditions

- 1). Except as expressly provided for by conditions 3, 4 and 5 the following reserved matters shall be as approved by the Department: - the siting, design and external appearance of the dwellings and the means of access thereto.
- 2). Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels, proposed finished floor levels and the position height and materials of any retaining walls, all in relation to identified datum points on Drumahoe Road and Ardrough Road.
- 3). Before any work commences on the site a scheme for the improvement of the Drumahoe Road/Glenshane Road junction to the south-east of the site shall be submitted to and agreed with the Department and shall be implemented prior to the occupation of any of the dwellings and shall be permanently retained thereafter unless otherwise agreed with the Department.
- 4) Before any work commences on the site provision shall be made for an agreed access point onto Drumahoe Road incorporating sight visibility splays and a right turning lane into the site from Drumahoe Road, all in accordance with a scheme submitted to and approved by the Department, which shall be permanently retained thereafter, unless otherwise agreed with the Department.

- 5) No development shall take place until detailed proposals for disposal of storm water and foul sewage have been submitted to and approved in writing by the Department. No dwellings shall be occupied until the approved arrangements are put in place.
- 6) No development shall take place until there has been submitted to and approved by the Department a landscaping scheme showing trees and hedgerows to be retained and the location, numbers, species and sizes of trees and shrubs to be planted within the site and along the site boundaries. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Department gives written consent to any variation.
- 7) Before any dwellings are occupied, a 20-year landscape management plan shall be submitted to and approved by the Department setting out long-term objectives, management responsibilities, performance measures and maintenance schedules for all landscaped areas. The landscape management plan shall be carried out as approved.
- 8) Application for approval of the reserved matters shall be made to the Department before the expiration of three years from the date of this decision.
- 9) The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later

This decision relates to the 1:2500 scale location plan, Drawing No.05-141-01, submitted with the application.

**COMMISSIONER GEORGE SCOTT**

**Appendix MKA 5**

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 (Northern Ireland) Order 1991**

Application No: **A/2010/0362/O**

Date of Application: **17th May 2010**

Site of Proposed Development: **Former Faughan Valley High School, Drumahoe Road, Drumahoe**

Description of Proposal: **Mixed-use development to include semi-detached residential units, re-use of the former school building for apartments and community hall, multi-use games area (MUGA pitch), changing facilities, children's play area, car parking for adjacent Primary School and associated landscaping.**

Applicant:	Western Education & Library Board	Agent:	DPP
Address:	C/o DPP, 4th Floor Scottish Mutual Building 16 Donegall Square South Belfast BT1 5JG	Address:	4th Floor Scottish Mutual Building 16 Donegall Square South Belfast BT1 5JG

Drawing Ref: 01, 02.

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The Department of the Environment in pursuance of its powers under the above-mentioned Order 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 Article 35 of the Planning (Northern Ireland) Order 1991, application for approval of the reserved matters shall be made to the Department 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. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called 'the reserved matters'), shall be obtained from the Department, in writing, before any development is commenced.

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

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

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 surface 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 Department to consider in detail the proposed development of the site.

4. The layout shall be designed in accordance with Policy QD1 of Planning Policy Statement 7 Quality Residential Environments and the associated supplementary guidance Creating Places.

Reason: To ensure the provision of a quality residential development.

5. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by the Department, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

6. 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 Department, 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 Department gives its written consent to any variation.

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

7. Any application for approval of reserved matters or full permission on any part of the site shall include details of gates, fences, walls or any other proposed structures in addition to the proposed dwellings. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development is in keeping with the locality.

8. No development/site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place until full details of both and hard and soft landscape works have been submitted to and approved in writing by the Department and these works shall be carried out as approved. These details shall include:

- 1 - proposed finished levels
- 2 - existing and proposed contours
- 3 - means of enclosure
- 4 - car parking layout/vehicle and pedestrian access and circulation areas
- 5 - hard surface materials
- 6 - minor artefacts and structures e.g. street furniture, play equipment, refuse storage,



lighting/existing and proposed services above and below ground

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

9. The layout shall be designed in accordance with the Department's design guide creating places.

Reason: In the interests of public safety.

10. The accesses to the residential and community areas shall be 6.0m wide with 10m entry or exit radii and visibility splays of 2.4m x 90m in both directions.

Reason: In the interests of public safety.

11. The gradient of the access shall not exceed 1:25 (4%) over the first 10 metres outside the road boundary ie Back of Verge/Footway.

Reason: In the interests of public safety.

12. Car parking shall be in accordance with the requirements of the Departments current design guide , Creating Places.

Reason: In the interests of public safety.

13. At Reserved Matters an Air Quality and Noise Assessment shall be provided for the proposed development adjacent to Glenshane Road.

Reason: In the interests of public safety.

14. At Reserved Matters a fully detailed topographical survey shall be provided, and shall include Glenshane Road and Drumahoe Road along the site frontage and boundary and shall extend to the end of the visibility splays required for the accesses.

Reason: In the interests of public safety.

15. Conversion work to the school building shall retain the historic plan form of a single sided corridor of the existing width and with no sub division

Reason: To ensure that the proposal maintains the original character of this Listed Building.

16. Existing partitions between classrooms should be relocated only to the line of the structural module with no partitions intersecting windows

Reason: To ensure that the proposal maintains the original character of this Listed Building.

Informatives

1. This decision relates to planning control only. The Department would advise that if the proposed works require Building Regulations approval this should be obtained from the relevant District Council before the works commence. The Department would also advise that this planning decision does not cover any other approval which may be necessary under other legislation.
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 effect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. 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.
5. The applicant is advised that the internal layout of the proposal should make adequate provision for the needs of people with disabilities. Further advice is set out in Development Control Advice Note 'Access for People with Disabilities' available from Divisional Planning Offices.
6. 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.
7. The applicant is advised that Roads Service own a strip of land along Glenshane Road which must be protected.
8. The applicant is advised that Roads Service has plans to widen Glenshane Road along the site boundary/frontage and any Noise/Air Quality assessment will have to take account of these proposals.
9. 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.

10. 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.
11. 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.
12. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
13. Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.
14. 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.
15. The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2007 which indicates that it is an offence to deliberately capture, injure or kill a wild animal of a European Protected Species included in Schedule II of these Regulations, which includes otter and all species of bat. It is also an offence to disturb these animals or obstruct access to their breeding site or resting place, or damage or destroy anything which conceals or protects their breeding site or resting place. If there is evidence of bat or otter activity on the site, all work must cease immediately and further advice must be sought from the Wildlife Officer, Environment and Heritage Service, Klondyke Building, Cromac Avenue, Gasworks Business Park, Lower Ormeau Road, Belfast. BT72JA.
16. The applicant's attention is drawn to the Wildlife (Northern Ireland) Order 1985 which states that it is an offence to intentionally kill, injure or take any wild bird. It is also an offence to take, damage or destroy the nest or egg(s) of these birds or to disturb bird(s) while they are building, in or at a nest, or whilst they have dependant young. Where the bird is included in Schedule 1 of the Order any offence is liable to a special penalty.
17. The Department considers that Leyland and Lawson Cypress (including the variety Castlwellan Gold), are inappropriate in housing areas as hedging plants because their

use can cause nuisance to adjoining residents by reason of shade, blocked views and soil damage due to their rapid vertical and horizontal growth and the invasive root system of these trees.

18. A Management Plan will be expected to set out the overall functional and aesthetic objectives of a landscape design and the steps over time (eg. legal arrangements including ownership, covenants entered into as a burden on statutory charges, management responsibilities, planned maintenance tasks, phased works, monitoring procedures etc.) that will be taken after implementation to ensure that the scheme becomes successfully established and reaches maturity and is sustainable, in perpetuity if that is appropriate.
19. Maintenance refers to the routine tasks (e.g. mowing, pruning, weeding, watering) required to satisfy appropriate standards of aftercare and to enable the design and implementation objectives in respect of planting to be satisfactorily achieved. It is essential to identify who will be responsible for these tasks over time and changed circumstances (e.g. ownership). A Schedule of Maintenance Operations is a component of a Landscape Management Plan and is commonly included within a landscape design specification document
20. The storm drainage of the site should be designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways.
21. Construction of SuDS should comply with the standards in the design manual for Scotland and Northern Ireland (CIRIA C521).
22. Any oil tanks serving the houses should be bunded. Pollution Prevention Guideline (PPG2).
23. The applicant complies with the attached Pollution Prevention Guidelines (PPG 2, 5, 6, 8, 11, and 16) in order to minimise the impact of the construction phase of the project on the environment. It should be noted that several SuDS features may be useful pollution prevention measures during the construction phase.
24. Should a sewage pumping station be required for this development then the applicant must apply to EHS WMU for a Water Order (1999) consent for an emergency flow.
25. Public water supply available, subject to Water Service approval to connect. If required a connection will be granted on approval of a completed Water Service Application Form and payment of the Department's standard charge. Contact Water Service's Customer Services Unit to obtain an application form, or telephone Waterline on 0845 7440088.
26. Surface water sewer not available. Surface water must not be taken to the foul sewer. Where it is proposed to discharge surface water to a river, stream or watercourse prior written consent for such discharge must be obtained from the Department of

Agriculture's River Agency.

27. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 1973, as amended 1993, consultation with Water Service is essential at design stage with regard to the following matters:

- (i) water supply requirements;
- (ii) foul water and surface water sewerage (Article 17 agreement) requirements;

Contact Water Service's Customer Services Unit or telephone Waterline on 0845 7440088.

28. The applicant is advised to contact Water Service through its Customer Service's Unit or Waterline on 0845 7440088 upon receipt of this decision to discuss any issues of concern.
29. 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.

Dated: 2nd May 2012 Authorised Officer



# Appendix MKA 6

MKA PLANNING LTD  
Chartered Town Planners

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



## PLANNING PERMISSION

Planning (Northern Ireland) Order 1991

Application No: A/2008/0098/F

Date of Application: 1st February 2008

Site of Proposed Development: Brookmount, Dalys Brae, Drumahoe Road, approx 90m south west of 4 Ardlough Road, Londonderry

Description of Proposal: Residential development comprising of 7 townhouses, 12 semi detached & 5 detached houses with associated car parking & landscaping.

Applicant: Sperrin Developments  
Address: C/o Agent  
Kevin Cartin Architects Ltd  
Unit 5  
Belmont Office Park  
232-240 Belmont Road, Belfast  
BT42AW

Agent: Ms A Gibson  
Address: Kevin Cartin Architects Ltd  
Unit 5 Belmont Road  
232-240 Belmont Road  
Belfast  
BT4 2AW

Drawing Ref: 01 - 35

The Department of the Environment in pursuance of its powers under the above-mentioned Order hereby

### GRANTS 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 Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time limit.

2. 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 be topped or lopped other than in accordance with the approved plans and particulars, without the

Application No. A/2008/0098/F

DC1001MW

Londonderry Planning Office



An Agency within the Department of the  
Environment

See also Explanatory Notes attached





written approval of the Department. Any approved arboricultural work or tree surgery shall be carried out in accordance with British Standard 3998, 1989. Recommendations for Tree Work.

Reason: To ensure the continuity of amenity afforded by existing trees (which are protected by a Tree Preservation Order).

3. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use, another tree or trees shall be planted at the same place and those trees shall be of such size and species and shall be planted at such time as may be specified by the Department.

Reason: To ensure the continuity of amenity afforded by existing trees (which are protected by a Tree Preservation Order).

4. Details of the maintenance and management in perpetuity of the open space and landscaped areas by a Management Company supported by a charitable trust or properly constituted residents association with associated management arrangements, or other such arrangements agreeable to the Planning Service, including a signed copy of the Memorandum and Articles of Association in accordance with the Landscape Management and Maintenance Plan received by Planning Service on 01 February 2008 and shall be submitted prior to the occupation of the first residential unit hereby approved and finalised to the satisfaction of the Department.

Reason: To ensure successful establishment and maintenance in perpetuity of the open space and amenity areas in the interests of visual and residential amenity.

5. The vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted.

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

6. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted (is occupied/becomes operational) and shall be retained and kept clear thereafter.

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

7. The gradient of all the individual accesses shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

Application No. A/2008/0098/F

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Londonderry Planning Office

See also Explanatory Notes attached





8. The gradient of the access at the junction with Daly's Brae shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

9. The development hereby permitted shall not be commenced until the existing access onto Drumahoe Road has been permanently closed and the road and footway properly reinstated to line and level.

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

10. The Private Streets (Northern Ireland) Order 1980.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 04 bearing the date stamp 4 February 2010.

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

11. The visibility splays of 2.4 metres by 33 metres and the required forward visibility sight line at the junction of the proposed housing access road with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any 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.

12. No dwelling 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 each phase.

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

13. The development hereby permitted, shall not be occupied until a Compliance Certificate for the Road Restraint System has been obtained from Roads Service Engineering Policy Branch.

Reason: To ensure that the structure is designed and constructed in accordance with the Design Manual for Roads and Bridges (DMRB) and the Technical Approval Scheme (TAS).

14. If the finished ground level of the property is below the finished level of the adjoining footway or verge then a boundary fence or wall shall be provided to a minimum height of 1.1 m above the footway or verge level.

Reason: To ensure the safety of pedestrians on the public road.

Application No. A/2008/0098/F

DC1001MW

Londonderry Planning Office

See also Explanatory Notes attached



Department of the  
Environment



INVESTMENT PROMOTION



15. In respect of the Shared private Driveway and prior to the occupation of any dwelling hereby approved, a management agreement shall be submitted to and approved by the Department which will allow for:

1. the provision and maintenance of the access road and parking areas.
2. the provision and maintenance of the drainage.
3. the installation and maintenance of street lighting.

The agreement shall remain in place as long as the development subsists.

Reason: To ensure that the maintenance of the site infrastructure is provided for.

### Informatives

1. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority.
2. This permission does not alter or extinguish or otherwise effect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. In order to comply with Condition 04, the arrangements for the future management and maintenance in perpetuity of areas of public open space acceptable to the Department include:
  - a) a legal agreement transferring ownership of and responsibility for the open space to the local district council; or
  - b) a legal agreement transferring ownership and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or
  - c) a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements. Evidence should be submitted to the Department include:
    - Articles of Association
    - Memorandum of understanding, and
    - Evidence of registration of the company

If an alternative approach to those outlined above is to be followed, it should be demonstrated how the approach can meet the policy requirement for open space to be managed and maintained in perpetuity.

In all cases, the developers will be responsible for the laying out and landscaping of public open space required.

Application No. A/2008/0098/F

DC1001MW

Londonderry Planning Office

See also Explanatory Notes attached



Department of the  
Environment



INVESTOR IN PEOPLE



5. 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.
6. 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.
7. 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.
8. 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.
9. Public water supply available, subject to Northern Ireland Water approval to connect. If required a connection will be granted on approval of a completed Application Form. Contact Northern Ireland Water's Customer Relations Centre at 0845 7440088 or email [waterline@niwater.com](mailto:waterline@niwater.com) to obtain an application form and information on charges, or download from the website [www.niwater.com](http://www.niwater.com)
10. Foul water sewer available, subject to Northern Ireland Water approval to connect. If required a connection will be granted on approval of a completed Application Form. Contact Northern Ireland Water's Customer Relations Centre at 0845 7440088 or email [waterline@niwater.com](mailto:waterline@niwater.com) to obtain an application form and information on charges, or download from the website [www.niwater.com](http://www.niwater.com)
11. Surface water sewer not available. Surface water must not be taken to the foul sewer. Where it is proposed to discharge surface water to a river, stream or watercourse prior written consent for such discharge must be obtained from the Department of Agriculture's River Agency.
12. The site is located in close proximity to a Waste Water Treatment Works (WWTW) and there is the possibility of occasional nuisance from WWTW odours. Noise may also be a problem.
13. To ensure compliance with the Water & Sewerage Service (NI) Order 2006, consultation with Northern Ireland Water is essential at design stage with regard to the following matters:
  - (a) water supply requirements;
  - (b) foul water and surface water sewerage requirements;Contact Northern Ireland Water's Customer Relations Centre or telephone Waterline on 0845 7440088.

Application No. A/2008/0098/F

DC1001MW

Londonderry Planning Office



Department of the Environment  
Northern Ireland  
Environment

See also Explanatory Notes attached



INVESTOR IN PEOPLE



14. The applicant is advised to contact Northern Ireland Water through its Customer Relations Unit or Waterline on 0845 7440088 upon receipt of this decision to discuss any issues of concern.
15. If during the course of developing the site the developer uncovers a pipe not previously evident the local Northern Ireland Water 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.
16. The proposed development is located adjacent to existing residential/commercial property. The developer should ensure that adequate steps are taken during construction to control noise and dust. Advice on noise can be found in BS 5228:1997 Noise Control on Construction and Open Sites. Adequate arrangements should be in place for the storage and disposal of waste.
17. Private Streets Order (Northern Ireland) 1980  
Under the above Order the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads and sewers in accordance with the Private Streets Construction Regulations.
18. In order to ensure that the laying of ducts and the erection of columns for street lighting is coordinated with the construction of the streets, the applicant should contact the Roads Service Street Lighting section at 1 Crescent Road, Londonderry, BT47 2NQ before any construction work commences.
19. The applicant is advised that developers are now responsible for the supply and installation of all street lighting within new developments where the streets are to be adopted under the Private Streets (Northern Ireland) Order 1980.
20. The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the DRD is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road as a result of extraordinary traffic generated by the proposed development.
21. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for which separate permissions and arrangements are required.
22. Details of any retaining walls required shall be submitted to and approved in writing by the DRD under the Technical Approval Scheme prior to any construction work being undertaken. The necessary TAS 1 forms to be obtained from the DRD's Roads Service.
23. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
24. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71 - 83 inclusive of the Roads (NI) Order 1993 to be in

Application No. A/2008/0098/F

DC1001MW

Londonderry Planning Office



Department of the Environment  
Environment

See also Explanatory Notes attached



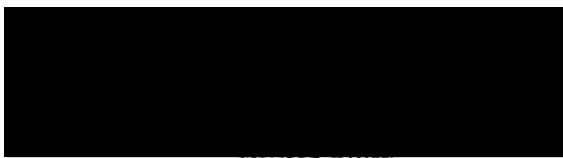
INVESTOR IN PEOPLE



possession of the DRD's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road; verge or footway or any part of said road, verge or footway bounding the site. The consent is available personal application to the Roads Service Section Engineer whose address is 1 Crescent Road, Londonderry BT47 2NQ. A monetary deposit will be required to cover works on the public road.

25. All construction plant and materials shall be stored within the curtilage of the site.
26. Highway design should be in accordance with the DOT/DOE Design Manual for Roads and Bridges, in particular TD9/93 Highway Link Design and the appropriate junction design standards.
27. It is the responsibility of the developer to ensure that:
  - i. surface water does not flow from the site onto the public road.
  - ii. the existing roadside drainage is accommodated and no water flows from the public road onto the site.
  - iii. surface water from the roof of the development hereby approved does not flow onto the public road, including the footway.
28. The applicant is further advised that developers are also now responsible for the cost of supervision of the construction of streets determined under The Private Streets Order. An inspection fee of 2% of the total bond value plus one thousand pounds (maximum fee: Five thousand pounds) will be paid directly to Roads Service before the bond agreement is completed.

Dated: 4th March 2010



Application No. A/2008/0098/F

DC1001MW

Londonderry Planning Office



NI 2007/10 with amendments  
Environment

See also Explanatory Notes attached



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# Appendix MKA 7

MKA PLANNING LTD  
Chartered Town Planners

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



**APPROVAL OF PLANNING PERMISSION**

**Planning (Northern Ireland) Order 1991**

Application No: A/2011/0126/F

Date of Application: 4th March 2011

Site of Proposed Development: **Adjacent to 12 Ardlongh Road  
Drumahoe  
Londonderry.**

Description of Proposal: **3 no 2 storey split level detached dwellings and garages served by a  
private road.**

Applicant: Landed Gentry  
Address: 45 Victoria Road  
Londonderry  
BT47 2PU

Agent: P4mcg Architecture  
Address: 13a Ebrington Terrace  
Londonderry  
BT47 6JS

Drawing Ref: 01, 02, 03.

The Department of the Environment in pursuance of its powers under the above-mentioned Order hereby

**GRANTS 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 Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

Application No. A/2011/0126/F



2. All landscaping works shall be carried out in accordance with the sequence of works as described in the Arboricultural Method Statement dated 4th March 2011 and as detailed in approved plan no. 02 date stamp received 4th March 2011.

Reason: To ensure the continuity of amenity afforded by existing trees.

3. During the first available planting season after the occupation of the first dwelling, the landscaping plan as detailed in drawing no. 02 date stamp received 4th March 2011 shall be carried out and any trees or shrubs which, within a period of 5 years from the occupation of the buildings die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and species.

Reason: In the interest of visual amenity and to ensure the character of the site is retained.

4. All mature trees to be removed, lopped, or pruned shall be inspected on the day of the removal by a qualified bat surveyor. If there is any evidence of any bat roosts on site, all work shall cease and further advice shall be sought from the NIEA Wildlife Officer.

Reason: To protect bats.

5. All trees to be retained shall be protected according to British Standard (BS) 5837:2005 'Trees in relation to construction'.

Reason: To avoid removal and /or destruction of potential roosting habitat for bats and to ensure no net loss of biodiversity on site.

6. There shall be no tree (including dead, damaged or live trees) removal west of the line labelled 'NIEA's Max. Development Line' on drawing number 02 date stamp received 4th March 2011, outside the trees already identified on this plan to be removed.

Reason: To avoid removal of potential roosting habitat for bats.

7. There shall be no lighting on the site, with the exception of domestic security lighting fitted with motion sensors.

Reason: To minimise the impact of the proposal on bats.





8. No works, infill, storage or constructional activity associated with the development, including the removal, dumping or storage of materials shall take place west of the 'NIEA's Max. Development Line' on drawing number 02 date stamped received 4th March 2011. The fence shall be maintained and shall not be removed until all works are completed.

Reason: To protect the ecological integrity of the River Faughan SAC, the River Faughan and Tributaries ASSI and the river corridor by preventing, reducing and eliminating pollution of water.

9. Prior to works to commencing on site, temporary fencing with exclusion signs shall be erected along the line labelled 'NIEA's Max. Development Line' on drawing number 02 dated 4th March 2011. The fencing shall follow the extent of the crown spread on the eastern side of the tree line.

Reason: To protect the ecological integrity of the River Faughan SAC, the River Faughan and Tributaries ASSI and the river corridor by preventing, reducing and eliminating pollution of water.

#### Informatives

1. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority.
2. The applicant's attention is drawn to 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 II of these Regulations, which includes otters and all species of bat. It is also an offence;
  - (a) Deliberately to 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 to obstruct access to a breeding site or resting place of such an animal; or
  - (d) To damage or destroy a breeding site or resting place of such an animal.
3. The applicant's attention is drawn to the Wildlife (Northern Ireland) Order 1985 which indicates that it is an offence to intentionally kill, injure or take any wild animal included in Schedule 5 of this Order which includes the Badger. It is also an offence to disturb these animals or obstruct access to their place of refuge, or destroy or damage anything which conceals or protects their place of refuge.



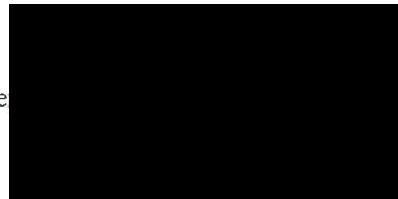
4. The applicant's attention is drawn to the Wildlife (Northern Ireland) Order 1985 which indicates that it is an offence to intentionally kill, injure or take any wild animal included in Schedule 5 of this Order which includes the red squirrel. It is also an offence to disturb these animals or obstruct access to their place of refuge, or destroy or damage anything which conceals or protects their place of refuge.
5. The applicant's attention is drawn to the fact that the site is connected to the Faughan River SPA and precautions should be taken to ensure its integrity will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and require consent from the Northern Ireland Environment Agency (NIEA) Conservation, Designations and Protection Unit, Klondyke Building, Gasworks Business Park, Belfast BT7 2JA.
6. The applicant should be aware that foxes and rabbits are present on site. The Welfare of Animals Act (Northern Ireland) 1972 indicates that it is an offence to cause any unnecessary suffering to any animal. To avoid any breach of the act through entombment or injury to animals on site the applicant should ensure that best practice techniques are applied during construction works.
7. The applicant is advised of the availability of pollution prevention guidance documents, namely those regarding works near water. To this end the applicant should ensure that all works are carried out in accordance with best practice, with reference to Pollution Prevention Guideline 5: Works and maintenance in or near water. Further information can be obtained at the following web address: [http://publications.environment-agency.gov.uk/pdf/PMHO1107BNKG-e-e.pdf?lang=\\_e](http://publications.environment-agency.gov.uk/pdf/PMHO1107BNKG-e-e.pdf?lang=_e).
9. The applicant is reminded that they have an obligation under Part II of the 'Water (Northern Ireland) Order (1999)' to obtain the consent of the Department prior to discharging effluent into a waterway or underground stratum for commercial, industrial or domestic premises.
10. The applicant is also informed that it is an offence under Part II, Article 7 of the 'Water (Northern Ireland) Order (1999)' to knowingly or otherwise discharge or deposit any poisonous, noxious or polluting matter so that it enters a waterway or water contained in any underground strata. This includes suspended solids. The penalty if found guilty of an offence under this Article is imprisonment for a term not exceeding 2 years or to a fine or both.



12. The proposed development is located adjacent to existing residential properties. The developer should be advised by way of an informative to ensure that adequate steps are taken during construction to control noise and dust. Advice on noise can be found in BS 5228:2009 Code of practice for noise and vibration control on construction and gen sites- Part 1:Noise Adequate arrangements should be in place for the storage and disposal of waste.
13. The applicant is advised to contact NI Water through its Customer Relations Centre or Waterline on 0845 7440088 upon receipt of this consultation to discuss any issues of concern.
14. If during the course of developing the site the developer uncovers a pipe not previously evident NI Water at 08458 770002 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.

Dated: 19th November 2011

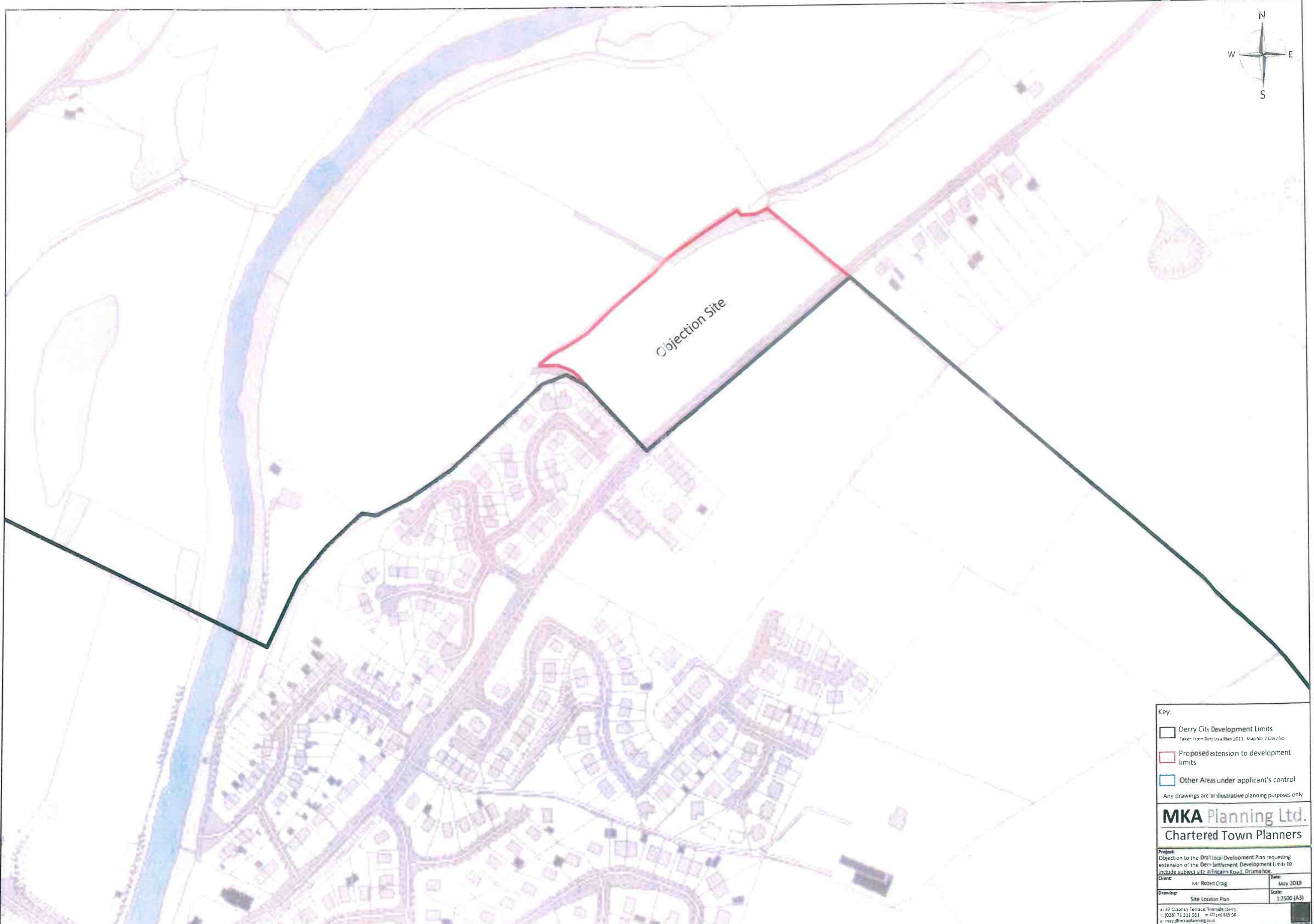
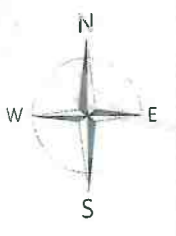
Authorised Office



**Appendix MKA 8**

MKA PLANNING LTD  
Chartered Town Planners

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



Objection Site

**Key:**

- Derry City Development Limits  
Taken from Derry Area Plan 2011, Map No. 2 City Map
- Proposed extension to development limits
- Other Areas under applicant's control

Any drawings are for illustrative planning purposes only

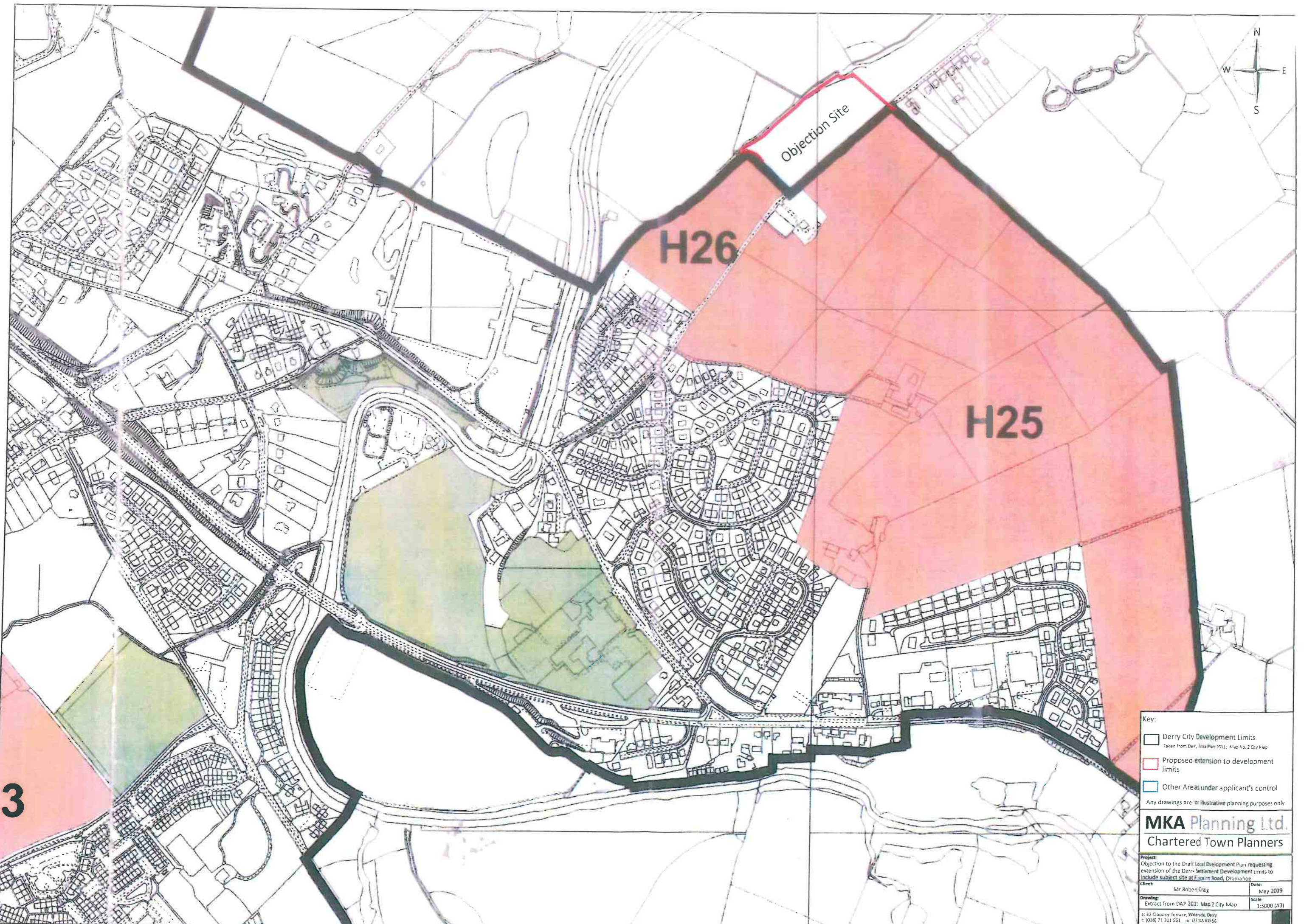
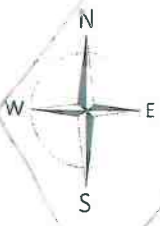
**MKA Planning Ltd.**  
Chartered Town Planners

Project: Objection to the Draft Local Development Plan requesting extension of the Derry Settlement Development Limits to include subject site at Fincarr Road, Drumahoe.

<small>Client:</small> Mr. Robert Craig	<small>Date:</small> May 2019
<small>Drawing:</small> Site Location Plan	<small>Scale:</small> 1:2500 (A3)

a: 32 Clooney Terrace, Nishnabry Derry  
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**Key:**

- Derry City Development Limits  
Taken from: Der. Area Plan 2011; Map No. 2 City Map
- Proposed extension to development limits
- Other Areas under applicant's control

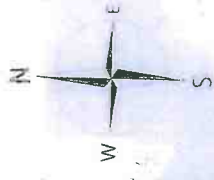
Any drawings are for illustrative planning purposes only

**MKA Planning Ltd.**  
Chartered Town Planners



Project: Objection to the Draft Local Development Plan requesting extension of the Derry Settlement Development Limits to include subject site at Firmin Road, Drumahoe.

<small>Client:</small> Mr Robert Craig	<small>Date:</small> May 2019
<small>Drawing:</small> Extract from DAP 2011; Map 2 City Map	<small>Scale:</small> 1:5000 (A3)

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Key:

-  Derry City Development Limits  
Taken from Derry Area Plan 2011, Map No. 2 City Area
-  Proposed extension to development limits

Any drawings are for illustrative planning purposes only

**MKA Planning Ltd.**  
Chartered Town Planners

Project: Objections to the Draft Local Development Plan requesting extension of the Derry Settlement Development Limits to include subject site at Lisnara Road, Derry

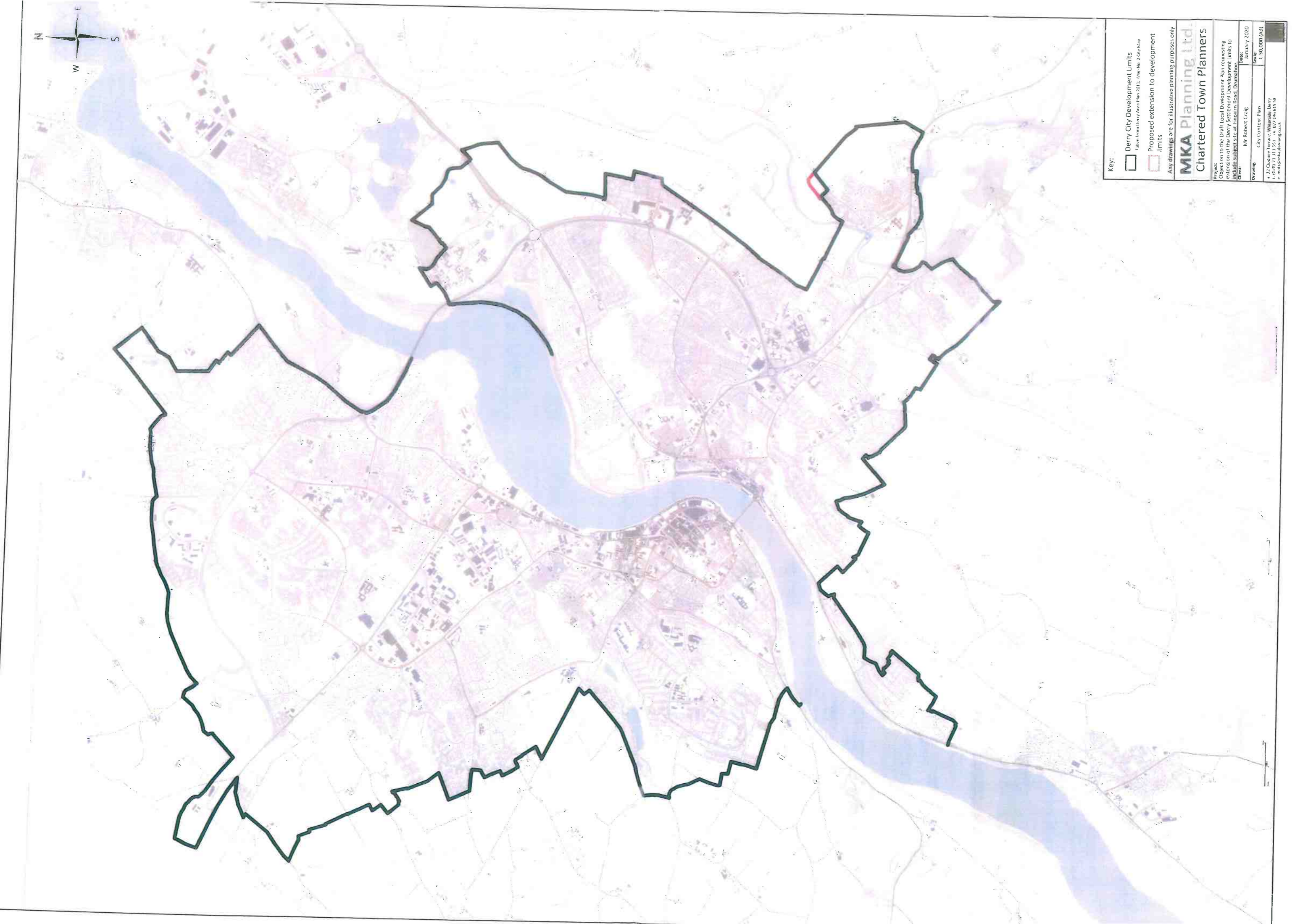
Client: Mr Robert Craig

Drawing: City Context Plan

Scale: 1:30,000 (A3)

Date: January 2020

© 3 J Clunney Terrace, Waterlode Derry  
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# Appendix MKA 9

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# Flood Maps (NL) Flood Hazard & Flood Risk Maps for NL

Find a place

## Layer List

- Floods Directive 2nd Cycle
- Floods Directive 1st Cycle
- Present Day - Floodplain Rivers
- Present Day - Floodplain Sea
- Present Day - Surface Water
- Climate Change - Floodplain Rivers
- Climate Change - Floodplain Sea
- Climate Change - Surface Water
- Historical Flooding
- PDF Maps - Flood Hazard (Click to Expand and Select Flood Source)

