



Newry, Mourne and Down District Council
Planning Office
O'Hagan House
Monaghan Row
Newry
BT35 8DL

Marlborough House
Central Way
Craigavon
BT64 1AD
Tel: 03002007892
Fax: 028 3834 1867

Your Ref: LA07/2019/0112/CA

Date: 03 May 2019

For the attention of

Alleged breach of Conditions 7 and 9 of planning application P/2006/1117/F

80m North of junction of Liska Road and Watsons Road, Newry, BT35 8NH

I refer to your email of 30 April 2019 regarding the Council's investigation into the above alleged breach of planning control.

DfI Roads Comments

It appears that there are two dwellings fully completed at present. DfI Roads is satisfied that the road to and fronting the dwellings is set out in accordance with the determined drawing and has been completed with a base course of bitmac. However, the road works on the public road is not complete.

It recently came to the attention of DfI Roads that the road works associated with Planning Application P/2013/0242/F could not be tied into the northern extremity of the road works at Watsons Road which had been set out according to the determined drawing approved under P/2006/1117/F.

DfI Roads Officers met on site with the developer of the housing associated with application P/2006/1117/F on 08 April 2019 in order to request him to realign this section of road/footway which he had already constructed and which DfI Roads had already approved.

It was accepted by DfI Roads at this meeting that the determined drawing was ambiguous and misleading.

The developer has since realigned the section of road/footway as agreed at the meeting of 08 April 2019. The DfI Roads Private Streets Inspector for this site has made regular checks on the works at Watsons Road since the meeting and is content with the setting out of and with the construction of the road/footway at the northern extremity of the site.

The DfI Roads Private Streets Inspector is working closely with the developer and has agreed a program for the completion of the road works. The road works will be adopted by DfI Roads subject to them being completed to the required standards.

A surfacing contractor is programmed to complete the surfacing under the Article 3(4C) Agreement on 13/14 May 2019 and a white lining contractor is programmed to complete the white lining of the right turning lane on 15 May 2019. The developer has agreed to surface the complete road which will benefit our DfI Roads Maintenance Office.

DfI Roads is content that the developer has cooperated with DfI Roads in agreeing to realign the road works. There is no doubt that these additional works have delayed the developer in his compliance with Condition 9 of Planning Approval P/2006/1117/F.

THOMAS KELLY
Private Streets Manager

From: Laughlin, Rowan
Sent: 08 May 2019 12:41
To: Nicholson, Reynold
Cc:
Subject: FW: Planning Responses

Reynold here is response for Simon's information.

Watson's Road EDB Construction P/2006/1117/F 77 dwellings and MJM Doran's Hill Ltd P/2013/0242/F 200 dwellings

These are adjacent developments which involve construction of a realigned section of Watsons Road by each developer. The EDB development is almost complete and most of the road which is online with the existing carriageway is under construction. An anonymous letter has recently been received by Planning stating EDB is in breach of conditions of approval, presumably because a couple of dwellings are occupied prior to completion of the roadworks. There is an ongoing legal dispute between EDB and MJM regarding the boundary between the two sites and a number of site meetings have been held regarding this with EDB. Following these EDB has undertaken to carry out adjustments to correct the alignment of their section of road. MJM has not commenced any work and has apparently served an injunction on EDB regarding the alleged ransom strip / land boundary issue. There are no outstanding consultations related but PSD's emailed from Planning are presently being looked at in terms of some minor issues.

From: Laughrin Rowan
Sent: 08 June 2019 10:08
To: Nicholson, Reynold
Cc:
Subject: Planning Application P/2013/0242/F - MJM Doran's Hill Ltd.

Reynold

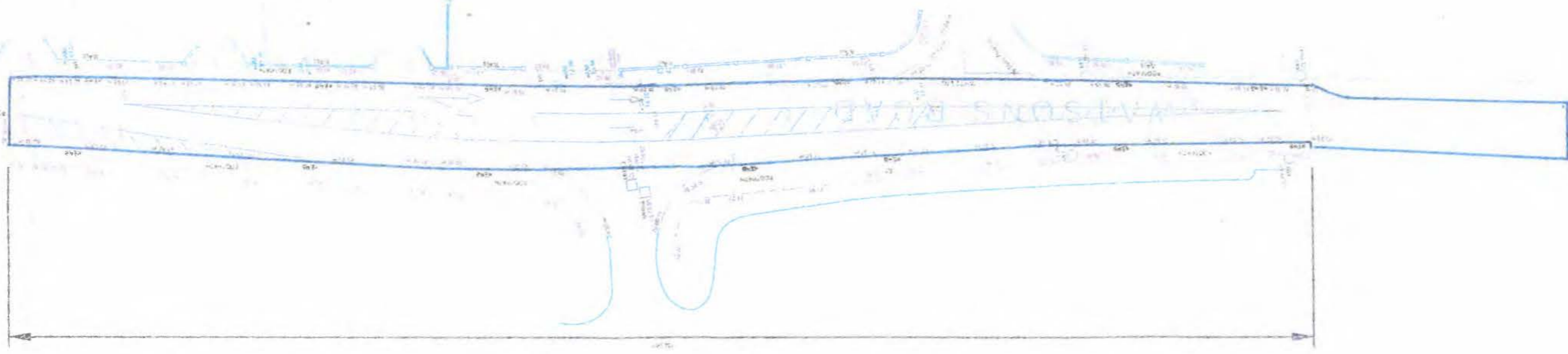
I have read the correspondence of 4 June 2019 from [redacted] of Carson McDowell on behalf of EDB Construction Ltd, the builder of 77 dwellings under application P/2006/1117/F, [redacted] who in another role acts as legal advisor to Ards and North Down Council Planning and via whom we have indirectly received guidance, is critical of Newry Mourne and Down Council's handling of the above application.

The letter refers to the decision by Council to issue approval subject to submission of satisfactory PSD's, holding a series of closed door meetings - which I have no knowledge of, lack of response from Council to FoI requests and primarily the ongoing alleged issue of a strip of land existing between the extremity of EDB's completed roads infrastructure and the extent of MJM land ownership. The latter has been the subject of discussion on site with EDB representatives but not MJM.

I consider there is no relevant input from DfI Roads, who did make mention of the tie in requirement in the note to Council Planning of 17 May 2019 prior to the subsequent consultation response of 3 June 2019.

Regards

Rowan



AS CONSTRUCTED DRAWING
PLAN NO. N17429A
SCALE: 1/500



DEPARTMENT FOR INFRASTRUCTURE

**THE PRIVATE STREETS (NORTHERN IRELAND) ORDER 1980 AS AMENDED BY THE
PRIVATE STREETS (AMENDMENT) (NORTHERN IRELAND) ORDER 1992**

PRELIMINARY CERTIFICATE OF COMPLETION OF STREETS

PRELIMINARY CERTIFICATE

DEVELOPMENT AT 20-24 WATSONS ROAD NEWRY
STAGE 01

Applicant:

FINNEGAN CONTRACTS LTD
7
CARROWBANE ROAD
DRUMILLY BELLEEK
BT35 7QL

Streets shown on Plan No: NM429A

The Department, being satisfied that the requirement (if any) attached to the determination given under Article 3(1) of the Private Streets (Northern Ireland) Order 1980 has been complied with, hereby certifies that:-

1. in accordance with Article 7(2)(a) of the Private Streets (Northern Ireland) Order 1980 the undernoted streets as shown on the above plan have been provided in conformity with a determination made under Article 3(1) of the Order;
2. in accordance with Article 7(2)(b) of the Private Streets (Northern Ireland) Order 1980 that the undernoted streets, or part of a street, satisfy the conditions specified in paragraph (1)(a) or (1)(b) of Article 7; and
3. all works which are reasonably necessary to bring the street into conformity with regulations made under Article 5(1) have been executed.

Signed
(Authorised Officer)

Dated: 7/6/19

STREETS REFERRED TO ABOVE:
20-24 WATSONS ROAD
NEWRY

transportni
Southern Division



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

Newry, Mourne and Down District Council
Planning Office
O'Hagan House
Monaghan Row
Newry
BT35 8DL

Marlborough House
Central Way
Craigavon
BT64 1AD
Tel: 03002007892
Fax: 028 3834 1867

Your Ref: LA07/2019/0112/CA

Date: 21 June 2019

**Alleged breach of Conditions 7 and 9 of planning application P/2006/1117/F
80m North of junction of Liska Road and Watsons Road, Newry, BT35 8NH**

I refer to your email of 30 April 2019 regarding the Council's investigation into the above alleged breach of planning control.

DfI Roads Update

Further to my comments of 03 May 2019, I can confirm that DfI Roads is content that the road/footway at Watsons Road, Newry has been set out as agreed at the meeting of 08 April 2019 and has been constructed to the required standard.

DfI Roads Private Streets Section has issued a Preliminary Certificate of Adoption for the Works carried out under the Article 3(4)C and Article 32 Agreements and the Bond for the Article 3(4)C has received a 90% Reduction.

Accordingly, from a DfI Roads perspective the Works to the public road, as detailed under the Article 3(4)C Agreements have been completed in accordance with the planning requirements.

THOMAS KELLY
Private Streets Manager





Campbell & Grant
SOLICITORS

OUR REF: MCVR/13288/19
YOUR REF: 02661-19, 02662-19 & 92891-19
25 June 2019

Mr. Reynolds
Department for Infrastructure
DfI Roads - Southern Division
Development Control
Rathkeltair House
Market Street
Downpatrick BT30 6AJ

Mr Reynolds Nicholson
Department for Infrastructure
DfI Roads - Southern Division
Development Control
Rathkeltair House
Market Street
Downpatrick BT30 6AJ

Dear Sir

Re: **Planning Application P2013/0242/F - Watsons Road, Newry**
Our Client: EDB Construction Limited

We refer to prior correspondence and note despite our requests we have not received updated copies of the PSD Drawings presently submitted and under consideration in respect of the above mentioned application. As per our correspondence of 8th April 2019 and if effected on site the roadworks determined to be completed under Article 3(4)(C) in respect of our Client's development have since been completed to the Department's satisfaction.

We now enclose a Map upon which the determination point of the roadworks effected to the Northern end of our Client's development is denoted by the pin kerb marked green on the attached Map. You will note that this point lies some 1.190 metres distant from our Client's title boundary being the Land Registry boundary marked by a hatched red line.

Having completed the works our Client has demarked the relevant area as lies within his ownership by surrounding same with red and white reflective gating as detailed in the Map attached hereto. Both the Map and Photograph attached clearly identify our Client's lands as lie between the end of the 3(4)(C) works required under P2006/1117F and the site boundary as currently detailed under P2013/0242/F. It is clearly evident that the proposed tie in to the extended Watsons Road as depicted on the PSD Drawings submitted in respect to P2013/0242/F cannot in fact be effected as to do so would require works beyond the current site boundary of that application, beyond the area of lands within the ownership of the Applicant and will require incorporation of our Client's lands in respect of which no application or agreement has been made.

A previous owner did seek an accommodation over our Client's lands and correctly extended the boundary of their Planning Application to incorporate these additional lands and provided the requisite P2 Notice. The current Applicant however reverted to the defining of his site boundary in accord with his land ownership excluding the area of our Client's lands as depicted as lie between the red and green lines on the enclosed Map. The current application does not extend across our Client's lands and accordingly therefore does not extend to the current end point of the extent of Watsons Road thereby rendering proper tie in as proposed unachievable.

In effect to process the current PSD Drawings with both the Department and Planners on full notice that the Planning Application boundary and indeed the Applicant's land ownership falls short of the tie in point to the widened Watsons Road and thereby render such tie in unachievable perpetuates the failings and processing errors in this Application to date and fails to recognise the inherent dangers as will arise from the creation of a bottle neck on the Watsons Road at this point compromising safety and convenience of all road users (vehicular and pedestrian) at this locality.

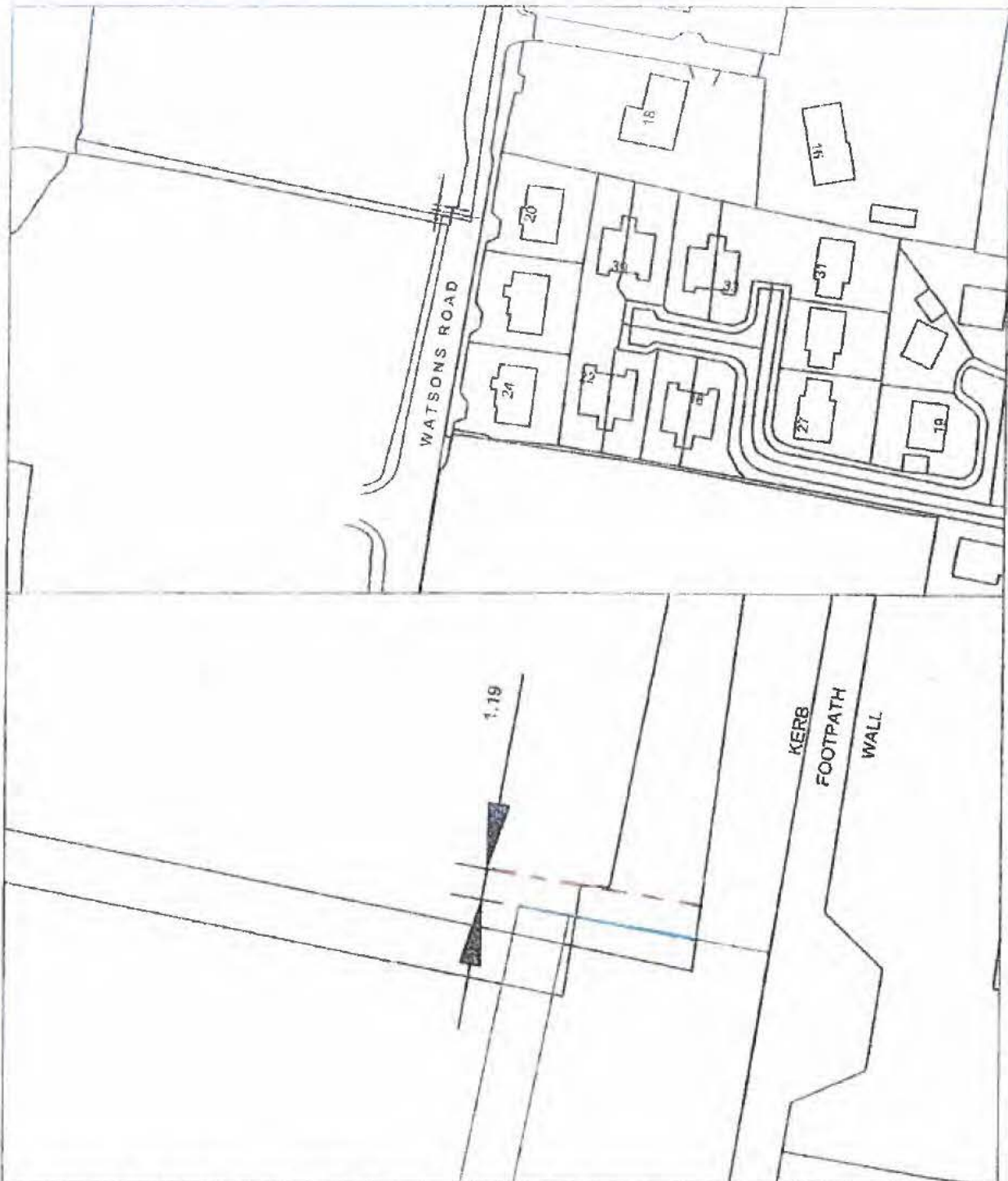
The detail of our Client's retained land at the tie in point is now clearly visible and has been definitively marked on the ground plan thereof hereto attached and visually demonstrated on the photographs attached hereto. It is evident that no tie in point can be agreed at this locus without the incorporation of our Client's lands and indeed the extending of the Applicant's site boundary. To the extent that the PSD Drawings incorporate works across our Client's lands same are presently unachievable. To seek to approve PSD Drawings without first securing our Client's agreement to incorporation of his lands within the required works can only result in the creation of a significant danger along the Watsons Road and would be in clear breach of PPS3 and 7.

We trust you will note accordingly.

We again repeat our request to be furnished with full copies of the current PSD Drawings in respect of this development.

Yours faithfully

Campbell & Grant Solicitors







From: Killen, Jason
Sent: 10 July 2019 15:00
To: '@nmandd.org' '@nmandd.org'
Cc: Laughlin, Rowan
Subject: Emailing - 200 DWELLINGS - WATSONS ROAD DORANS HILL NEWRY - DEVELOPMENT CONTROL - R -10 July
Attachments: - 200 DWELLINGS - WATSONS ROAD DORANS HILL NEWRY - DEVELOPMENT CONTROL - R -10 July.DOCX

Please see attached comments on the last PSD submission to be passed onto the applicant for action.

Regards

Jason

Your message is ready to be sent with the following file or link attachments:

- 200 DWELLINGS - WATSONS ROAD DORANS HILL NEWRY - DEVELOPMENT CONTROL - R ~10 July

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

P/2013/0242/F – 200 DWELLINGS – WATSONS ROAD/DORANS HILL, NEWRY

Dfl have no objections to the amended Private Streets Determination drawings dated 27 June 2019 subject to the following

Drawings

Sheet 1 of 4: separation and anti-dazzle barrier needs to be annotated separately on the drawing and not referred to as a safety barrier between Road 32 and Road 3 and also for Road 1 and Road 14

Road 12 to remain private as no pedestrian protection has been provided or attended to standard road type

Safety Barrier along road three has a note beside referencing note 15 this is incorrect and needs corrected.

Sheet 2 of 4: Dfl Roads has no issues.

Sheet 3 of 4: Access arrangements into site 86 is of concern as drivers leaving driveway at 86 are expected to reverse all the way around to the turning head adjacent to site 87 this would be unacceptable therefore appropriate parking and turning required for site 86.

Road 37 requires appropriate vehicle restraint system and anti-dazzle barrier to be appropriately annotated on drawing

Sheet 4 of 4: TAS is required for retaining walls which are retaining more than 1m therefore note 4 on the drawing stating TAS is required if the wall is greater than 1.8m needs to be amended.

Following these corrections 7 copies of all sheets including drainage drawings and longitudinal road sections should be submitted for comment

From: Kelly, Thomas
Sent: 25 July 2019 10:19
To: Nicholson, Reynold
Subject: FW: 92888-19 - Development at Watsons Road, Newry
Attachments: 2NDFLOORBEDFORD@CFRLAW.CO.UK_20190403_125219.pdf

Reynold,

Please see draft response for your consideration.

Dea

Thank you for your email dated 23 July 2019 regarding the road widening works at Watsons Road, Newry.

I can confirm that DfI Roads is content that the road works carried out at Watson's Road, Newry complies with the Private Streets Determination Drawing under Planning Application Reference P/2006/1117/F. DfI Roads has issued a Preliminary Certificate of Adoption for the Works which were carried out in accordance with the Determined Drawing under the Article 3(4)C and Article 32 Agreements with the Department.

In addition, I can confirm that the Department has no role in any land issues between your company and the adjacent developer, has no wish to become embroiled in land boundary issues between developers and has no prejudice towards either party in this case.

I am sorry that I cannot be more helpful on this occasion.

Yours sincerely

Thomas Kelly
DfI Roads Private Streets Manager

*Reynold advised to
check out the Folio Boundaries
of the adjacent sites*

25/7/19

From
Sent: 23 July 2019 18:49
To: Kelly, Thomas
Cc: Nicholson, Reynold
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Thank you for the response.

Are DfI Roads content that road widening works outlined in the Private Streets Determination Drawing (under Planning Application Reference P/2006/1117/F) extend to the Northern boundary of EDB's land?

In the letter issued by EDB's solicitor, Campbell Grant, they stated that the road widening works outlined in their approved PSD drawing did not extend fully to their Northern land boundary. The letter intimated that in doing this they had by de facto they created a very narrow "ransom strip" which would prevent the tie in of the new distribution road to be constructed under planning application P/2013/0242/F.

Have DfI Roads received confirmation from EDB Construction that their widened road has been extended fully to their Northern land boundary?

From: Kelly, Thomas
Sent: 23 July 2019 17:12
To:
Subject: FW: 92888-19 - Development at Watsons Road, Newry

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear

Thank you for your follow up email to Reynold Nicholson, dated 01 July 2019, regarding the attached DfI Roads letter dated 28 March 2019. I have been asked to reply as this relates to an area of work for which I am responsible.

I can confirm that DfI Roads met with EDB Construction on site on 08 April 2019 to request that the extent and alignment of the road works be altered and extended to comply with the Private Streets Determination Drawing under Planning Application Reference P/2006/1117/F. The extent and alignment of the road works were subsequently altered and extended as discussed at the meeting of 08 April 2019 and has been constructed to the relevant standard. Following the completion of the road works, DfI Roads has issued a Preliminary Certificate of Adoption for the Works which were carried out in accordance with the Determined Drawing under the Article 3(4)C and Article 32 Agreements with the Department.

I hope you find this reply helpful.

Yours sincerely

Thomas Kelly
DfI Roads Private Streets Manager

From:
Sent: 01 July 2019 12:10
To: Nicholson, Reynold
Cc: DfI Southern Secretariat <southern.secretariat@infrastructure-ni.gov.uk>
Subject: 92888-19 - Development at Watsons Road, Newry

Reynold,

I am just dropping you a follow up email to the attached letter.

Did your team meet with EDB Construction and was there any agreed conclusions or actions?

Many Thanks



MJM Group, Carnbane Business Park
Newry, Northern Ireland, BT35 6QH
Tel: +44 (0) 28 3025 8450
Fax: +44 (0) 28 3025 8489

From: Kelly, Thomas
Sent: 01 August 2019 14:29
To:
Subject: FW: 92888-19 - Development at Watsons Road, Newry
Attachments: 2NDFLOORBEDFORD@CFRLAW.CO.UK_20190403_125219.pdf

Dear

Thank you for your email dated 23 July 2019 regarding the road widening works at Watsons Road, Newry under Planning Application Reference P/2006/1117/F.

I can confirm that DfI Roads is content that the road works carried out at Watson's Road, Newry complies with the Private Streets Determination Drawing under Planning Application Reference P/2006/1117/F. DfI Roads has issued a Preliminary Certificate of Adoption for the Works which were carried out in accordance with the Determined Drawing under the Article 3(4)C and Article 32 Agreements with the Department.

While there appears to be a land ownership issue at the boundary between EDB Construction Ltd's housing development site and MJM Doran's Hill Ltd's proposed housing development site, I can confirm that the Department has no role in any land issues between your company and the adjacent developer, has no wish to become embroiled in land boundary issues between developers and has no prejudice towards either party in this case.

I trust this now clarifies the Department's position.

Yours sincerely

Thomas Kelly
DfI Roads Private Streets Manager

From
Sent: 23 July 2019 18:49
To: Kelly, Thomas
Cc: Nicholson, Reynold
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Thomas,

Thank you for the response.

Are DfI Roads content that road widening works outlined in the Private Streets Determination Drawing (under Planning Application Reference P/2006/1117/F) extend to the Northern boundary of EDB's land?

In the letter issued by EDB's solicitor, Campbell Grant, they stated that the road widening works outlined in their approved PSD drawing did not extend fully to their Northern land boundary. The letter intimated that in doing this they had by de facto they created a very narrow "ransom strip" which would prevent the tie in of the new distribution road to be constructed under planning application P/2013/0242/F.

Have DfI Roads received confirmation from EDB Construction that their widened road has been extended fully to their Northern land boundary?

Kind Regards

Sent: 29 July 2019 12:08
To: Nicholson, Reynold
Subject: FW: Watson's Road Newry
Attachments: 290719 - Watsons Road Newry.docx; Scanned from a Xerox Multifunction Printer.pdf

Reynold,

Please see attached from [redacted] of Lands Section:
Folio AR105490 and Folio Map for EDB Construction Ltd's housing development site on Watsons Road and
Folio AR128570 and Folio Map for MJM Doran's Hill Ltd's proposed housing development site on Watsons Road

[redacted] is of the opinion that there is a land issue at the boundary of the two Folios and this was reinforced by her conversation with Land Registry in relation to EDB Construction Ltd's application for a 'Rectification' on Folio AR128570 (MJM Doran's Hill Ltd) and MJM Doran's Hill Ltd's rebuttal to this 'Rectification'

From a DfI Roads Development Control perspective, it is crucial that any Recommendation for Approval for Planning Application Reference P/2013/0242/F to Council Planning will require the tie-in to the road works completed under Planning Application Reference P/2006/1117/F to be constructed prior to the commencement of any works.

Regards
Thomas

DfI Roads
Southern Division

5247
RAM

Cleaver Fulton Rankin
50 Bedford Street
BELFAST
BT2 7FW



Department for
Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

Development Control
Rathkeltair House
Market Street
DOWNPATRICK
BT30 6AJ
Tel: 02844 618185

Your reference:

Our reference: 92888-19

28 March 2019

Dear Sirs

**MJM DORAN'S HILL LTD – DEVELOPMENT AT WATSON'S ROAD, NEWRY
PLANNING APPLICATION P/2013/0242 –
YOUR CLIENT MJM DORAN'S HILL LTD**

Thank you for your letter dated 19 March 2019 to Mr Simon Richardson regarding the above. As this relates to an area of work for which I am responsible, I have been asked to reply on Mr Richardson's behalf.

I am aware of the ongoing matters which have arisen in relation to the linkage of roads associated with your client's development and the neighbouring housing site.

Your observations in respect of the roadworks carried out by EDB Construction Limited have been noted as has the associated correspondence on the latter's behalf from Campbell & Grant Solicitors and Carson McDowell LLP. As a consequence I have instructed my Private Streets supervisory staff to review the situation on the ground and to ascertain whether the setting out of the extent and alignment of the road works is fully compliant with the relevant Determination drawings.

I have advised the representatives of EDB Construction of this intention and hope that it will prove beneficial to both developers in removing any confusion about their respective road works.

Yours faithfully 

REYNOLD NICHOLSON
Principal Chartered Engineer
Network Planning Manager

TR2760

From: Laughlin, Rowan
Sent: 08 July 2019 09:24
To:
Subject: FW: 92888-19 - Development at Watsons Road, Newry
Attachments: Draft response to email of 1 July 2019 from MJM Group re Watsons Road

From: Laughlin, Rowan
Sent: 08 July 2019 09:23
To: Nicholson, Reynold
Subject: RE: 92888-19 - Development at Watsons Road, Newry

Reynold

I would be a bit cautious about using the word 'agreed' in terms of any work carried out.

As I mentioned I drafted out my thoughts on a response in case it was needed and it is attached.

Rowan

From: Nicholson, Reynold
Sent: 05 July 2019 13:38
To: Laughlin, Rowan
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Rowan

Can we please discuss?

Thanks

Reynold

From: Kelly, Thomas
Sent: 05 July 2019 12:37
To: Nicholson, Reynold
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Reynold,
Please see draft response for your consideration.
Regards
Thomas

Dear

Thank you for your follow up email to Reynold Nicholson, dated 01 July 2019, regarding the attached DfI Roads letter dated 28 March 2019. I have been asked to reply as this relates to an area of work for which I am responsible.

I can confirm that DfI Roads met with EDB Construction, the developer of the housing associated with Planning Application P/2006/1117/F, on site on 08 April 2019 to request that the extent and alignment of the road works be altered and extended to comply with the relevant Determination Drawing. The extent and alignment of the road

works were subsequently attended and extended as agreed at the meeting on 04 April 2019 and has been instructed to the relevant standard. Following the completion of the road works, DfI Roads has issued a Preliminary Certificate of Adoption for the Works which were carried out under the Article 3(4)C and Article 32 Agreements with the Department.

I hope you find this reply helpful.

Yours sincerely

Thomas Kelly
DfI Roads Private Streets Manager

From: Nicholson, Reynold
Sent: 01 July 2019 12:29
To: Kelly, Thomas
Cc:
Subject: FW: 92888-19 - Development at watsons road, newry

Thomas

Can MT, Ack and draft a response please

Thanks

Reynold

From
Sent: 01 July 2019 12:10
To: Nicholson, Reynold
Cc: DfI Southern Secretariat <southern.secretariat@infrastructure-ni.gov.uk>
Subject: 92888-19 - Development at Watsons Road, Newry

Reynold,

I am just dropping you a follow up email to the attached letter.

Did your team meet with EDB Construction and was there any agreed conclusions or actions?

Many Thanks



MJM Group, Carnbane Business Park
Newry, Northern Ireland, BT35 6QH
Tel
Fax +44 (0) 28 3025 8489
Mob:
Email:
Web www.mjm-group.com

From: Kelly Thomas
Sent: 23 July 2019 16:26
To: Nicholson, Reynold
Subject: FW: 92888-19 - Development at Watsons Road, Newry
Attachments: 2NDFLOORBEDFORD@CFRLAW.CO.UK_20190403_125219.pdf

Reynold,
Are you content with my draft response?
Regards
Thomas

From: Kelly, Thomas
Sent: 05 July 2019 12:37
To: Nicholson, Reynold
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Reynold,
Please see draft response for your consideration
Regards
Thomas

Dear

Thank you for your follow up email to Reynold Nicholson, dated 01 July 2019, regarding the attached DfI Roads letter dated 23 March 2019. I have been asked to reply as this relates to an area of work for which I am responsible.

I can confirm that DfI Roads met with EDB Construction, the developer of the housing associated with Planning Application P/2005/1117/F, on site on 08 April 2019 to request that the extent and alignment of the road works be altered and extended to comply with the relevant Determination Drawing. The extent and alignment of the road works were subsequently altered and extended as agreed at the meeting of 08 April 2019 and has been constructed to the relevant standard. Following the completion of the road works, DfI Roads has issued a Preliminary Certificate of Adoption for the Works which were carried out under the Article 3(4)C and Article 32 Agreements with the Department.

I hope you find this reply helpful.

Yours sincerely

Thomas Kelly
DfI Roads Private Streets Manager

change to
'discussed'

Reynold 23/7

From: Nicholson, Reynold
Sent: 01 July 2019 12:29
To: Kelly, Thomas
Cc:
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Thomas

From: Kelly, Thomas
Sent: 23 July 2019 17:12
To:
Subject: FW: 92888-19 - Development at Watsons Road, Newry
Attachments: 2NDFLOORBEDFORD@CFRLAW.CO.UK_20190403_125219.pdf

Dear

Thank you for your follow up email to Reynold Nicholson, dated 01 July 2019, regarding the attached DfI Roads letter dated 28 March 2019. I have been asked to reply as this relates to an area of work for which I am responsible.

I can confirm that DfI Roads met with EDB Construction on site on 08 April 2019 to request that the extent and alignment of the road works be altered and extended to comply with the Private Streets Determination Drawing under Planning Application Reference P/2006/1117/F. The extent and alignment of the road works were subsequently altered and extended as discussed at the meeting of 08 April 2019 and has been constructed to the relevant standard. Following the completion of the road works, DfI Roads has issued a Preliminary Certificate of Adoption for the Works which were carried out in accordance with the Determined Drawing under the Article 3(4)C and Article 32 Agreements with the Department.

I hope you find this reply helpful.

Yours sincerely

Thomas Kelly
DfI Roads Private Streets Manager

From: Nicholson, Reynold
Sent: 01 July 2019 12:29
To: Kelly, Thomas
Cc:
Subject: FW: 92888-19 - Development at Watsons Road, Newry

Thomas

Can MT, Ack and draft a response please

Thanks

Reynold

From:
Sent: 01 July 2019 12:10
To: Nicholson, Reynold
Cc: DfI Southern Secretariat <southern.secretariat@infrastructure-ni.gov.uk>
Subject: 92888-19 - Development at Watsons Road, Newry

Reynold,

am just dropping you a follow up email to the attached letter

Did your team meet with BT? Can you get an end user to do a signed approval form or similar?

Many Thanks



MJM Group, Carnbane Business Park
Newry, Northern Ireland, BT35 6QH
Tel: +44 (0) 28 3025 8450
Fax: +44 (0) 28 3025 8489
Mob
Email
Web: www.mjm-group.com



THE INFORMATION, TECHNICAL DATA AND/OR DESIGNS DISCLOSED HEREIN ARE PROVIDED IN CONFIDENCE FOR THE LIMITED PURPOSE OUTLINED. SUCH INFORMATION, TECHNICAL DATA AND/OR DESIGNS ARE THE EXCLUSIVE PROPERTY OF MJM MARINE LTD AND/OR CONTAIN PROPRIETARY RIGHTS OF OTHERS AND ARE NOT TO BE REPRODUCED OR DISCLOSED TO ANY THIRD PARTY WITHOUT THE WRITTEN CONSENT OF A DIRECTOR OF MJM MARINE LTD.

DfI Roads
Southern Division

52451
RAM

Cleaver Fulton Rankin
50 Bedford Street
BELFAST
BT2 7FW



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

Development Control
Rathkeltair House
Market Street
DOWNPATRICK
BT30 6AJ
Tel: 02844 618185

Your reference:

Our reference: 92888-19

28 March 2019

Dear Sirs

**MJM DORAN'S HILL LTD – DEVELOPMENT AT WATSON'S ROAD, NEWRY
PLANNING APPLICATION P/2013/0242 –
YOUR CLIENT MJM DORAN'S HILL LTD**

Thank you for your letter dated 19 March 2019 to Mr Simon Richardson regarding the above. As this relates to an area of work for which I am responsible, I have been asked to reply on Mr Richardson's behalf.

I am aware of the ongoing matters which have arisen in relation to the linkage of roads associated with your client's development and the neighbouring housing site.

Your observations in respect of the roadworks carried out by EDB Construction Limited have been noted as has the associated correspondence on the latter's behalf from Campbell & Grant Solicitors and Carson McDowell LLP. As a consequence I have instructed my Private Streets supervisory staff to review the situation on the ground and to ascertain whether the setting out of the extent and alignment of the road works is fully compliant with the relevant Determination drawings.

I have advised the representatives of EDB Construction of this intention and hope that it will prove beneficial to both developers in removing any confusion about their respective road works.

Yours faithfully

REYNOLD NICHOLSON
Principal Chartered Engineer
Network Planning Manager

TR2760

From: Laughlin, Rowan
Sent: 05 August 2019 08:58
To:
Subject: FW: Watson's Road, Newry
Attachments: 290719 - Watsons Road Newry.docx Scanned from a Xerox Multifunction Printer.pdf

From: Kelly, Thomas
Sent: 01 August 2019 14:57
To: Laughlin, Rowan
Subject: FW: Watson's Road, Newry

Rowan,

of our Lands Section has brought to my attention a land ownership issue at the boundary between EDB Construction Ltd's housing development site (P/2006/1117/F) and MJM Doran's Hill Ltd's proposed housing development site (P/2013/0242/F).

This was reinforced by her conversation with Land Registry in relation to EDB Construction Ltd's application for a 'Rectification' on Folio AR128570 (MJM Doran's Hill Ltd) and MJM Doran's Hill Ltd's rebuttal to this 'Rectification'.

From a DfI Roads Development Control perspective, it is crucial that any Recommendation for Approval for Planning Application Reference P/2013/0242/F to Council Planning will require the tie-in to the road works completed under Planning Application Reference P/2006/1117/F to be constructed prior to the commencement of any works.

Reynold is to discuss this with you tomorrow and has advised that _____ will need to be made aware of:

1. the land ownership issue and
2. the requirement for the tie-in to the road works completed under Planning Application Reference P/2006/1117/F to be constructed prior to the commencement of any works under P/2013/0242/F.

Regards
Thomas

P/06/1117/F road works not up to centre line of bridge as per drawing Discussed with Brian Reynolds, Jason at internal meeting 15/8/19

From: Kelly, Thomas
Sent: 01 August 2019 13:24
To: Nicholson, Reynold <Reynold.Nicholson@infrastructure-ni.gov.uk>
Subject: FW: Watson's Road, Newry

Reynold,

Please see attached from _____ of Lands Section:
Folio AR105490 and Folio Map for EDB Construction Ltd's housing development site on Watsons Road and
Folio AR128570 and Folio Map for MJM Doran's Hill Ltd's proposed housing development site on Watsons Road

is of the opinion that there is a land issue at the boundary of the two Folios and this was reinforced by her conversation with Land Registry in relation to EDB Construction Ltd's application for a 'Rectification' on Folio AR128570 (MJM Doran's Hill Ltd) and MJM Doran's Hill Ltd's rebuttal to this 'Rectification'.

From a DfI Roads Development Control perspective, it is crucial that any Recommendation for Approval for Planning Application Reference P/2013/0242/F to Council Planning will require the tie-in to the road works completed under Planning Application Reference P/2006/1117/F to be constructed prior to the commencement of any works.

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Sent: 01 August 2019 13:24
To: Nicholson, Reynold
Subject: FW: Watson's Road, Newry

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From a DfI Roads Development Control perspective, it is crucial that any Recommendation for Approval for Planning Application Reference P/2013/0242/F to Council Planning will require the tie-in to the road works completed under Planning Application Reference P/2006/1117/F to be constructed prior to the commencement of any works.

Regards
Thomas

Note of Meeting with re Watson Road + Old Wimpel!
Tues 6 Aug 2019 at Council Office Room

The latest PSDs from for the MJM
development were considered to the amendments
were noted as appropriate.

OUR REF: NIG/VIR/B288-7

YOUR REF:

7 August 2019



Campbell & Grant
SOLICITORS

Mr Reynold Nicholson
Department for Infrastructure
DfI Roads – Southern Division
Development Control, Rathkeltair House
Market Street
Downpatrick BT30 6AJ

17 Sugar Island, Newry
County Down BT33 6JJ
Tel: (028) 3026 6600 (4 lines)
Tel: (028) 3025 1510 (2 lines)
Fax: (028) 3026 5000
DX 2065 NR NEWRY
Email: law@campbellandgrant.com
www.campbellandgrant.co.uk

Dear Mr Nicholson

Re: Planning Application P/2013/0242/F – Watsons Road, Newry
Our Client: EDB Construction Limited

We refer to the above referenced matter and your letter of 29th July enclosing purported disclosure pursuant to the FOI request made and your EIR response. It is evident that said disclosure is not complete. We are aware of communications, meetings and exchanges between DRD and both the Planners and third parties which have not been disclosed and the response is therefore considered incomplete.

We have sight of a PSD Drawing being designated version N, Sheet 3 (date stamped 21 June 2019) purporting to evidence a tie in to the Watsons Road at the end point of the road works effected under P/2006/1117/F. We have had the said PSD Drawing examined by our Client's Mapping Experts and note the following conclusions:

1. The PSD Drawing as submitted details road works as lie beyond the site outline of Planning Application P/2013/0242F.
2. The said PSD Drawing as submitted does not detail the requisite road works necessary to effect a "tie in" to the existing Watsons Road at the end point of the road improvements already effected under P/2006/1117/F in that the PSD Drawing stops short of the necessary tie in point.

We attach hereto a Map prepared by our Mapping Expert evidencing that the tie-in works proposed firstly exceed the red line boundary of the application site (P/2013/0242/F) and secondly fail to reach the requisite tie-in point as denoted on site by the kerb line inserted by our Client at the end of the roadworks effected under P/2006/1117/F.

We require your Department to clarify the validity of each of the above two findings and to advise as to how precisely DfI Roads, in discharge of their statutory functions in respect Roads intend to address each of these shortcomings. It is noted your Mr Richardson formally confirmed in correspondence of the 14th January 2019 that the "drawings will provide full engineering details of the road layout, alignment and tie in for the purpose of determining acceptability for adoption."

Whilst you have formally advised our Client that ownership is not a matter to be addressed by your Department which takes no role in any land dispute we are directed to ensure your Department is placed on notice of the fact that our Client retains ownership and control of lands as lie between the end point of the adopted road works as were effected under P/2006/1117/F and the lands both in the ownership of the Applicant and within the site confines of the application P/2013/0242/F. We have previously placed your Department and Planners on full notice in this regard and enclose, for ease of reference, further copy of our letter of 25 June 2019 whereby we have demonstrated occupation, ownership and control of the area immediately behind our Client's pin kerb, being the requisite tie-in point herein.

The detailed Maps attached to ours of 25th June 2019 and hereto evidence that the red line boundary of this application site (P/2013/0242/F) stops 1.190 metres short of the required tie-in point and location of tie-in works. The red line boundary of the application site falls within the field lying immediately to the north of our Client's hedgerow. The fact is our Client retains ownership and control of the lands now required to effect proposed tie in to the road works completed under P/2006/1117/F.

In respect registration of ownership at Land Registry our Clients title has been registered in excess of thirteen years and as such is now deemed indefeasible. The adjoining development was held under a Registry of Deeds title which has only become subject to compulsory first registration upon its recent acquisition by the Applicant. Upon acquisition of the adjoining development lands the Solicitors then acting for the Developer made application for registration of their Registry of Deeds title at Land Registry lodging a Map which sought to include an area as fronts our Clients lands, which area does not form part of the red line boundary of P/2013/0242/F, and to which area the Applicant does not in fact have any entitlement. We have raised this issue with the Developers Solicitors and have called upon them to agree rectification of the matter or, in the alternative produce for inspection the Registry of Deeds Title upon which they rely. Despite our repeated requests no title whatsoever has been produced.

We have lodged our objection as an Inhibition at Land Registry and the process is ongoing. Upon checking the current position, we are advised the Applicant has made a submission at Land Registry which is with its Solicitors for processing and to which we shall be responding upon our receiving notification of the content thereof. Our Clients Land Registry Boundary includes the area of land as lies between the rear of the pin kerb (denoting the end of the road works effected under P/2006/1117/F) and the red line boundary of the application site (P/2013/0242/F) as detailed on the Map enclosed herewith.

In such circumstances, where lands beyond the red line boundary of the application site and in respect to which a third party makes claim, your Department has the responsibility to ensure that the requisite tie-in is achievable and conditional within the Development approval. We note that your Department acknowledged the shortcomings in relation to the application red line boundary and the extent of the tie-in works in their PSD response of 17 May 2019 and somewhat unusually responded again to the same drawings on 3 June 2019 without referencing this crucial issue.

In all such circumstances we ask you clarify how it is proposed to ensure the required tie in is in fact effected under any approval issued under P/2013/0242/F. It is evident that the tie in works and improvement works proposed for Watsons Road requires to be conditioned as must be implemented prior to commencement of any other development at this locus.

Yours sincerely

Campbell & Grant Solicitors




Watsons Road, Newry, Co Down


Scale 1 : 200 & 1 : 1250

Date: 20-05-2019

Title boundary & Red line boundary for P/2013/0242/F

Road determination encroachment 

Road determination for Ref. P/2013/0242/F as detailed on sheet 3 of 4 date stamped 21/06/2019 

Pin Kerb marks endpoint of 34C/article 32 works of P/2006/1117/F 



OUR REF: MG/VR/B288-7

YOUR REF:

9th August 2019

Campbell & Grant
SOLICITORS

Mr Reynold Nicholson
Department for Infrastructure
Dfi Roads – Southern Division
Development Control
Rathkeltair House
Market Street
Downpatrick BT30 6AJ

17 Sugar Island, Newry
County Down BT35 6HT
Tel: (028) 3026 6660 (4 lines)
Tel: (028) 3025 1518 (2 lines)
Fax: (028) 3026 5080
DX 2065 NR NEWRY
e-mail: law@campbellandgrant.com
www.campbellandgrant.co.uk

Dear Mr Nicholson

Re: Planning Application P2013/0242/F - Watsons Road, Newry
Our Client: EDB Construction Limited

We refer to the above referenced matter and our previous submissions. We have today received copy PSD drawings from Planners and have inspected the most recent version thereof with particular regard to the proposed tie in of the proposed realignment of Watsons Road. The following matters have been noted:-

- 1 The PSD drawings date stamped 2nd August 2019 do not correctly detail the locus.
- 2 The proposed tie in works continue to purport to be effected over third party lands south of the "Red Line Boundary" of Application P/2013/0242. The said Red line boundary is also the Applicants title boundary which does not comprise any portion of the intervening hedge, which lies wholly within the ownership of our client.
- 3 Our Client has already accommodated the Department with additional width of 0.8 metres at the actual tie in point, yet the Applicants verge exceeds the width of the adopted works and will require further additional third party lands to accommodate requisite forward visibility provisions. No provision has been made for such.

To progress PSDs under the Applicants current site location plan and comply with your Departments stated requirements that "all PSD works require to be within the Applicants red line boundary" then the tie in point would have to lie a full 1.2 metres north of the existing pin kerb denoting the actual tie in point.

The terminating of the requisite tie in works within the applicants current red line boundary prevents the necessary tie in being achievable.

Yours sincerely

Campbell & Grant Solicitors

Michael Grant LLB ✦
Cary Clougherty LLB ✦
Peter Rooney LLB ✦

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ROI VAT Reg No IE 585221 01



We are a full major credit cert
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✦ 40, Wellington Buildings, The Avenue, Belfast

Notes of Meeting held on 9. August 2019 at 1.10pm
Present: R. Nelson, T. Kelly, R. Loughlin

Land's Property Services have indicated that there is affirmation
to ratify

for M&M It will be a requirement that the road must be constructed
in accordance with PSD prior to occupation of first house.

Table boundary is centre of ^{ledge} but Tom thinks different

Flag up to Planners land dispute
application for rectification

Comply with planning approval - that
both roads need constructed to the $\frac{1}{2}$ of hedge

All that is significant is $\frac{1}{2}$ of hedge
The question is: Are the $\frac{1}{2}$'s on each drawing in
the same location

M&M will be asked to alter PSD

Both determinations should be constructed up to
the the centre lines of the hedges

with Land's Prop Services
A rectification process is under way
- change of plan

Planners have been instructed to bring the
M&M determination back to centre line of hedge
x 100% of ab. etc.

EDB
34C) extent of
works is understood
to be centre line ledge

Both have to build
up to centre line of

MEETING IN RATHKELTAIR HOUSE on 9th August 2019 in relation to P/2013/0242/F

Present: Reynold Nicholson, Rowan Laughlin, and Thomas Kelly

Background to request for me to attend the meeting:

- I had been invited to this meeting following my email to [redacted] on 1st August 2019 in response to his email dated 23rd July 2019 in relation to the Preliminary Adoption of Works under P/2006/1117/F and the land ownership issue at the boundary between EDB Construction Ltd's housing development site and MJM Dorans Hill Ltd' proposed housing development site. Reynold had prior sight of this email and approved same.
- Prior to my email of 1st August 2019 Reynold had advised me on 25th July to check out the Folio Boundaries of the adjacent sites at Watsons Road.
- [redacted] of our Lands Section confirmed that there was a land issue at the boundary of the two Folios and this was reinforced by her conversation with Land Registry in relation to EDB Construction Ltd's application for a 'Rectification' on Folio AR128570 (MJM Doran's Hill Ltd) and MJM Doran Hill Ltd's rebuttal to this 'Rectification'.
- [redacted] was concerned that the land issue could result in the roads not physically tying into each other on the ground in that if EDB Construction Ltd's Determined Area stops short of the land boundary associated with the adjacent Determined Area then key land could prevent a tie in.
- I met with Reynold on 1st August 2019 and made him aware of concerns.
- Reynold asked me to make Rowan aware of the land ownership issue at the boundary between EDB Construction Ltd's housing development site (P 2006 1117 F) and MJM Dorans Hill Ltd's housing development site (P/2013 0242 F) and to advise him that, from a Development Control perspective, a requirement under P 2013 0242 F that the tie-in to the road works completed under P 2006 1117 F be constructed prior to the commencement of any other works.
- Reynold and I agreed that Council Planning should be made aware of the land ownership issue.
- I sent an email to Rowan on 1st August 2019 to inform him that Reynold has advised that [redacted] be made aware of the land ownership issue at Watsons Road and be made aware of the requirement under P 2013 0242 F for the tie in to the road works completed under P 2006 1117 F to be constructed prior to the commencement of any works under P 2013 0242 F.

Minutes of Meeting of 9th August 2019

- The meeting revolved around two letters from Campbell & Grant Solicitors. The first letter dated 25th June 2019 together with enclosed plan which showed the end of the road works under P/2006/1117/F denoted by the pin kerb marked green and the title boundary (Land Registry boundary) marked by a broken red line. The second letter dated 7th August 2019 together with enclosed plan which showed end of the road works under P/2006/1117/F denoted by the pin kerb marked green, title boundary and red line boundary for P/2013/0242/F marked by a red line, end of road determination for P/2013/0242/F marked by a blue line and road determination encroachment hatched in red.
- Reynold, Rowan and _____ were of the opinion that the title boundary, detailed by the red line in the plan enclosed with the Campbell & Grant Solicitors' letter dated 7th August 2019, represented the Planning red line boundary for P/2013/0242/F and that this was the same Planning red line boundary for P/2006/1117/F.
- Reynold, Rowan and _____ were of the opinion that the Determined Area for P/2013/0242/F should be taken back to the title boundary and that EDB Construction Ltd should extend their road works to the title boundary. I said that the Determined Area under P/2006/1117/F stopped at the middle of the hedge and did not go to the title boundary.
- I confirmed that where a street is being determined adjacent to an already determined street/adopted street by Development Control in Craigavon I make sure that the two determinations abut other and where possible overlap so that there is a continuous road. Accordingly, it was necessary to have the road works determined under P/2013/0242/F tie into the road works determined and preliminary adopted under P/2006/1117/F.
- I referred to the plan enclosed with the Campbell & Grant Solicitors' letter dated 7th August 2019 which shows that the title boundary is offset 1.19 metres from the pin kerb installed under P/2006/1117/F into MJM Dorans Hill Ltd's land. I said that if this is the case and if MJM Dorans Hill Ltd determination stops at the title boundary, this will result in the determination falling short of the determined adopted road under P/2006/1117/F and will result in DfT Roads being left with a serious road issue. Rowan concurred with this.
- On examination of the Determined Drawings for P/2013/0242/F and P/2006/1117/F I discovered and demonstrated in the meeting that the line of the hedge line, title boundary of P/2013/0242/F varied by approximately 0.8 metres north from the line of the hedge line of P/2006/1117/F, which meant that we did not have a common hedge for the two Determination Areas.
- I then informed the meeting that I was totally convinced that if the determined area of P/2013/0242/F is taken back to the red line i.e. the title boundary, then

the determined area will undoubtedly fall short of the determined/adopted road under P/2006/1117/F which will result in a bottleneck on the Watsons Road

- I highlighted the Seagoe Drive case in relation to Planning Application Reference LA08 2016/0008/F where a slither of her land had been adopted without her consent due to a slight discrepancy between the actual boundary on the ground and the folio boundary. I explained that Watsons road is similar in that the folio boundary is offset from the boundary on the ground but is different in that DfI Roads will end up with a slither of land not determined for adoption. DfI Roads will then be faced with acquiring the third party land and completing the tie-in.
- Following a lengthy discussion, Reynold took the view that there is only one hedge, that the red line in the plan enclosed with the Campbell & Grant Solicitors' letter dated 7th August 2019 represented the folio boundary/hedge line/planning red line boundary of P 2013/0242/F and P 2006/1117/F, that MJM Dorans Hill Ltd should be asked to pull their determined area back to the red line i.e. the title boundary, that Council Planning should be notified of the EDB Construction Ltd application for rectification on MJM Dorans Hill Ltd Folio AR128570 and of MJM Dorans Hill Ltd rebuttal for the same Folio and that Council Planning should be notified of the requirement under P/2013/0242/F for the tie-in to the road works completed under P 2006/1117/F to be constructed prior to the commencement of any other works.
- I said that DfI Roads cannot simply assume that the title boundary which is the Planning red line boundary/hedge for P 2013/0242/F and the middle of the hedge which is the Planning red line boundary for P 2006/1117/F are the same, as I had demonstrated that the hedge is marked at different locations on the respective Determine Drawings. In doing this the Determination Area under P 2013/0242/F will fall short of the Determined Area under P 2006/1117/F.
- confirmed that any Approval for P 2013/0242/F would have a condition that the tie in be made prior to the occupation of the first dwelling thereby ensuring that the tie-in would be achieved before any other development and that the land issues would be resolved prior to any other development being commenced.

Thomas Kelly
DfI Roads Private Streets Manager
Southern Division

From:
Sent: 13 August 2014 09:55
To: @nmandd.org @nmandd.org
Cc: Kelly Thomas Laughlin Rowan
Subject: PSD Drawings dated the 2 August 2019
Attachments: psd reply.pdf

Folks,

Please see attached response to the recent PSD Drawings dated the 2 August 2019.

Regards

Development Control

Your message is ready to be sent with the following file or link attachments:

psd reply

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

sent 13/8/2019



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

Rathkeltair House
Market Street
DOWNPATRICK
BT30 6AJ

Planning Application Reference Number: P/2013/0242/F
Date Plans/Documents received by Planning: 02/08/2019
Date Plans/Documents received by DFI Roads: 06/08/2019

Drawing/Document Reference: PSDs

Before DFI Roads can make comment please ask applicant to amend the extent of proposed road works at the southern Boundary on Watsons Road indicated on the Private Streets Determination Drawing dated 2 August 2019 sheet 4 of 4. This is to ensure that there is no encroachment over the red line boundary of the application site as enforcement cannot take place outside the latter.

The applicant should confirm that the red line defining the application site at the southern boundary abuts the adjacent red line of drawing 01 Rev 4 dated 27 December 2012 associated with P/2006/1117. The Present 1:2500 drawing 01 Rev 3 dated 17 October 2018 is not of adequate scale to be definitive.

Planning should note that there is a Rectification application with Lands and Property Services by EDB Construction on MJM Dorans Hill Ltd's folio AR128570 and DOW application by MJM Dorans Hill LTD for the same folio. See attached papers

WNR Laughlin
Development Control (on Behalf of DFI Roads)
12 August 2019



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Development**

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Department for Infrastructure

From: Kelly Thomas
Sent: 09 August 2019 14:22
To: Nicholson, Reynold
Cc: Laughlin, Rowan
Subject: FW: Watsons Road Newry - Folios AR 128570 (MJM Dorans Hill Ltd) +AR 105490 (EDB Construction)
Attachments: 290719 - Watsons Road Newry.docx, Scanned from a Xerox Multifunction Printer.pdf

Reynold,
Please notify Council Planning of email below from Land Registry (and attachments) to our Lands Section alerting DfI Roads of an application for 'Rectification' by EDB Construction on MJM Dorans Hill Ltd's Folio AR128570 and 'Dow' by MJM Dorans Hill Ltd for the same Folio.
Regards
Thomas

From:
Sent: 08 August 2019 15:57
To: Kelly, Thomas
Subject: FW: Watsons Road Newry Folios AR 128570+AR 105490

Tom

Please see email below from Land Registry.

Regards,

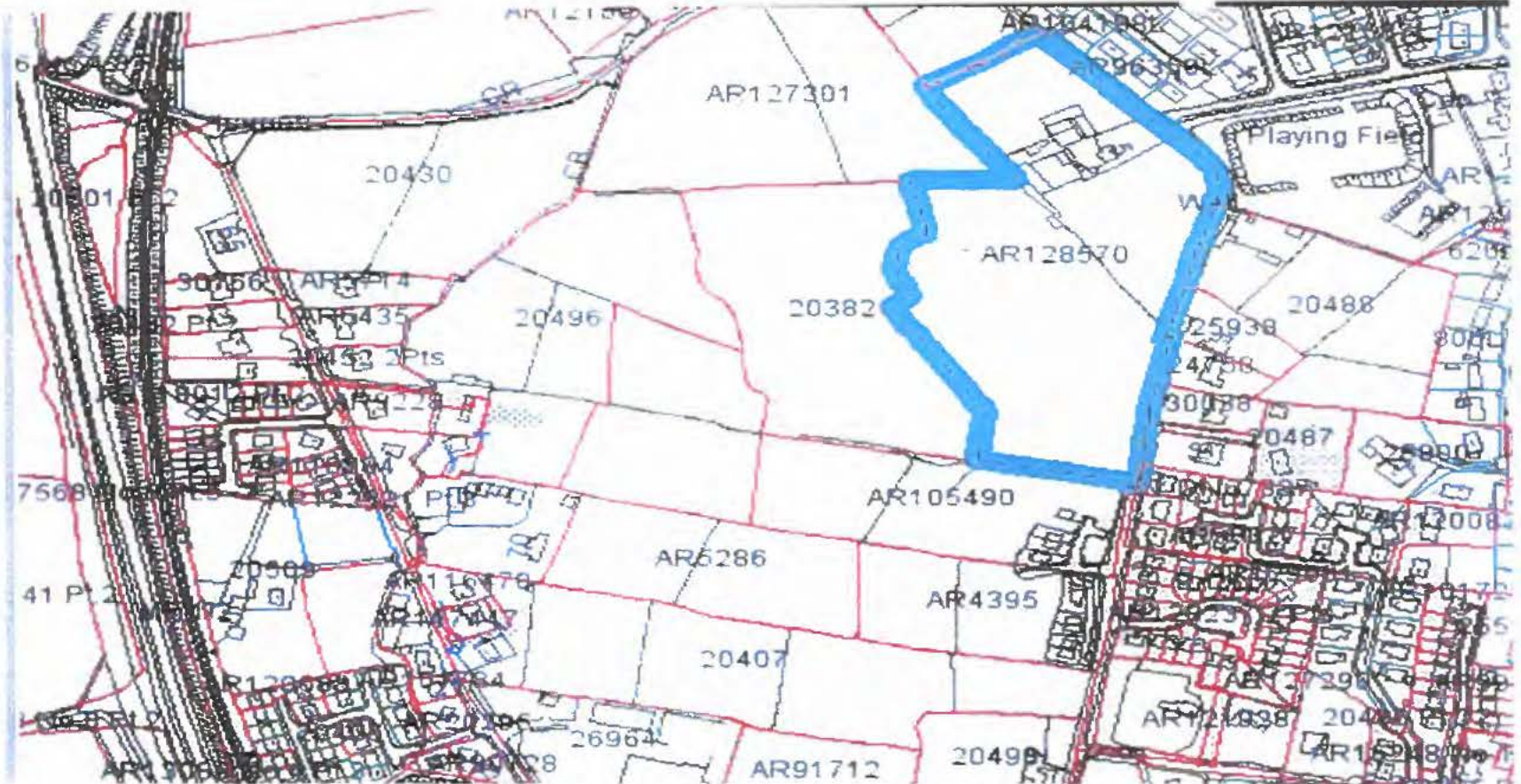
From:
Sent: 08 August 2019 3:13 PM
To:
Subject: Watsons Road Newry Folios AR 128570+AR 105490

With reference to your recent e-mail query regarding folios AR128570+AR105490.

I can confirm that there are several pending applications lodged against these folios

I have attached a list of the application numbers for your convenience.

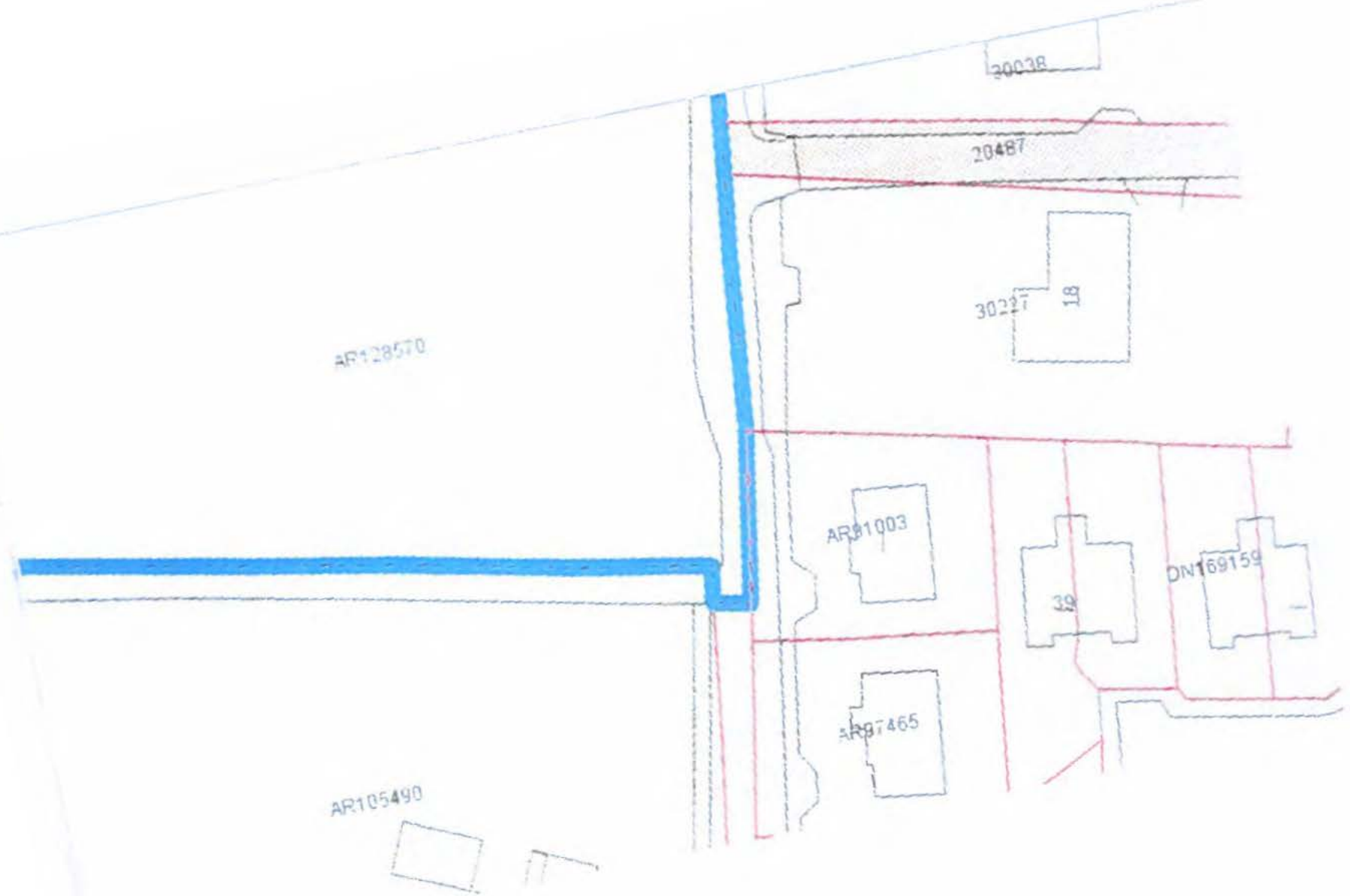
If you have any queries about any of these documents you can request a copy of them for a fee of £7.



AR128570 - MJM DORANS HILL LTD of 5A, CARNBANE BUSINESS PARK, NEWRY, BT35 6QH is full owner



AR105490 - EDB CONSTRUCTION LTD of 2A SEAVERS ROAD, KILLEAVEY, NEWRY, BT35 7LR is full owner



Land & Property Services – The Land Registry

TITLE REGISTER

Date of First Registration: 26/01/2017 Folio: AR128570

Edition: 1 County: Armagh

Opened: 26/01/2017 L.R. Map Reference:

Prior Title (if any): Grid Reference:

Area: 4.482 Hectares

PART I – containing a description of the land and, where appropriate, particulars of the lease under which it is held.

Form 1 The freehold land shown on the Registry map relating to the above Folio and
 Document No: 2016/867527// comprising a plot of land situate to the west of Watsons Road, Newry.
 For Root of Title
 Document No: 2016/867527/B
 Document No: 2016/867527/C

PART II – containing the name and address of the registered owner and the other particulars relating to ownership of the land.

Date of Registration & Remarks	Particulars
	CLASS OF TITLE Absolute
Registered on First Registration Document No: 2016/867527/D	MJM DORANS HILL LTD of 5A, CARNBANE BUSINESS PARK, NEWRY, BT35 6QH is full owner

PART III – containing particulars relating to burdens and charges etc.

Date of Registration & Remarks	Particulars

Folio: AR12470

County: Armagh

Date Searched In: 24/7/2019

Details of Pending Applications

Application Number	Application Type	Client Name	Applicant	Date Lodged
2019/116550	RECTIFICATION	EDB CONSTRUCTION	CAMPBELL & GRANT	08/02/2019
2019/521378	DOW	MJM DORAN'S HILL LIMITED	CLEAVER FULTON RANKIN LIMITED	02/07/2019

Land & Property Services – The Land Registry

TITLE REGISTER

Date of First Registration	19/06/2006	Folio: AR105490
Edition: 1		County Armagh
Opened 19/06/2006		L R Map Reference
Prior Title (if any)		Grid Reference
		Area 1.6871 Hectares

PART I – containing a description of the land and, where appropriate, particulars of the lease under which it is held.

The freehold land shown on the Registry map relating to the above Folio and comprising land situated at Watsons Road, Newry.

PART II – containing the name and address of the registered owner and the other particulars relating to ownership of the land.

Date of Registration & Remarks	Particulars
	CLASS OF TITLE: Absolute
Registered 19th June 2006 Document No: 2006/286631/A	CANON ESTATE LIMITED of BANK BUILDING, 39 HILL STREET, NEWRY is a full owner as a tenant in common of an undivided half share K & S DEVELOPMENTS LIMITED of BANK BUILDING, 39 HILL STREET, NEWRY is a full owner as a tenant in common of an undivided half share
Registered 2nd November 2006 Document No: 2006/280954/F Consideration £1,125,000	BRACKENVALE DEVELOPMENTS LIMITED of 2 WEST STREET, PORTADOWN, CRAIGAVON, COUNTY ARMAGH is full owner
Registered 18th June 2013 Document No: 2013/293964/D	EDB CONSTRUCTION LTD of 2A SEEVERS ROAD, KILLEAVEY, NEWRY, BT35 7LR is full owner

PART III – containing particulars relating to burdens and charges etc.

Date of Registration & Remarks	Particulars

Details of Pending Applications:

Application Number	Application Type	Client Name	Applicant	Date Lodged
2019/387834	TOP		CAMPBELL & GRANT	05/08/2019
2019/444352	TOP		CAMPBELL & GRANT	10/06/2019
2019/541442	TOP		CAMPBELL & GRANT	11/07/2019
2019/569970	TOP		FISHER & FISHER	24/07/2019

Meeting on 14/08/2019 in meeting room at 14th August 2019

In attendance

- Planning Dept.

DTI Roads

- I-pent

M.M. Moore

as Ltd - Roads Engineer

DTI Roads outlined the issues raised/changes requested in the latest consultation response dated 12th August. The client accepted that these changes needed to be made and agreed to submit revised PSD drawings to overcome the concerns of DTI Roads. The client said the revised drawings would be completed asap and would be with the Planning Department today (14th August 19)

agreed with the above

14/8/19



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure.ni.gov.uk

Rathkeltair House
Market Street
DOWNPATRICK
BT30 6AJ

Planning Application Reference Number: P 2013 0242 F
Date Plans Documents received by Planning: 14 08 2019
Date Plans Documents received by DFI Roads: 15 08 2019

Drawing Document Reference: PSD, cover letter

No objection.

Conditions to be included under the Planning Order and 6 coloured plans endorsed under the Private Streets Order to follow in the post.

Senior DFI Officer: WNR Laughlin
Development Control (on Behalf of DFI Roads)
15 august 2019

Note of meeting held - New Jersey Office
Springfield Pt. Conference on Weds 21 8 19
to discuss Wilson's Pt.

Present: S. Richardson, R. Nicholson, T. Kelly, R. Langford

The latest PSDs were considered. R.L. advised that
M.J.M.'s PSD drawings had been approved on Fri 23 8 19

T. Kelly advised that the Article ~~32~~ = 3(4c) had
been preliminary adopted. 90% bond reduction has been
applied. Thomas stated it was 90% of 3(4c) has been released
Discussion took place on land boundaries & centre-line of ledge

It was agreed to write to
extent of determination

Campbell & Grant vs

MEETING IN CARNBANE SECTION OFFICE on 21st August 2019

Present: Simon Richardson, Reynold Nicholson, Rowan Laughlin and Thomas Kelly

- Rowan Laughlin confirmed that the Private Streets Determination Drawings for P/2013/0242/F had been signed.
- The meeting revolved around the 1.19 metres being acknowledged to exist between the pin kerb which represents the end of the road works under P 2006/1117/F and the end of the Determined Area under P/2013/0242/F.
- In approving the PSDs for P/2013/0242/F Development Control had directed the agent to reduce the extent of the road works to his Planning red line site boundary/title boundary thus creating a piece of land 1.19 metres between the road works completed under P/2006/1117/F and the road works proposed under P/2013/0242/F.
- I said that Campbell & Grant Solicitors claimed that the title boundary between the two adjacent land owners is offset from the existing hedge on the ground into MJM Dorans Hill Ltd's land but that Reynold took the view that there is only one hedge and that the title boundary/hedge line planning red line boundary of P 2013/0242/F and P/2006/1117/F are all represented by the middle of the hedge on the ground.
- I also advised that [redacted] had concerns in relation to the boundary issues ongoing in Land Registry.
- Simon Richardson referred to the DfI Roads meeting prior to my meeting with [redacted] of 8th April 2019 whereby everyone was in agreement that EDB Construction Ltd needed to extend the pin kerb to the middle of the hedge
- It was accepted that [redacted] insisted on meeting only myself
- Simon then questioned how my stance had changed from the earlier DfI Roads meeting to leaving a gap of 1.19 metres to the middle of the hedge and effectively gifting EDB Construction Ltd with key land
- I explained that [redacted] had claimed that the hedge had been cut back to the middle of the hedge and with this in mind I requested that the pin kerb be moved as close as possible to the middle of the hedge without killing the hedge. I estimated this to be approximately 400mm maximum. I also explained that [redacted] had got the pin kerb moved a further 100mm towards the middle of the hedge. I said that I believed that the pin kerb was only short of the middle of the hedge by 200mm - 300mm. I felt very uncomfortable being accused of gifting EDB Construction key land and said that this was definitely not the case. I explained that the 1.19 metres lies between the end of the road works completed under P.2006/1117/F and the title boundary/red line boundary of P/2013/0242/F.

- I informed the meeting that [redacted] had made regular checks on the road works at Watsons Road and was content with the setting out of and the construction of the road/footway at the northern extremity of the site and that a Preliminary Certificate of Adoption had been issued for the Works under the 3(4)C.
- It was accepted that the adoption was only preliminary for the 3(4)C and that there was no adoption on the Article 32 works.
- It was suggested that the pin kerb could be moved 1.19 metre under Article 11 Enforcement and everyone agreed.
- [redacted] confirmed that Council Planning intends to take another Enforcement Case against EDB Construction Ltd in relation to the Determined Works.
- Following Simon's departure from the meeting I reiterated that I thought that the road works under P/2006/1117/F was only in the region of 200mm short of the middle of the hedge. Rowan said that 200mm is still key land.

Thomas Kelly
DfI Roads Private Streets Manager
Southern Division

Following the meeting with Simon Richardson, Reynold Nicholson, Rowan Laughlin, [redacted] and I in the Newry Office on 21st August 2019 in relation to the adoption of the road works on Watsons Road [redacted] and I visited the Watson's Road site.

[redacted] measured the distance from the pin kerb to the middle of the hedge to be between 400mm and 450mm. I explained to [redacted] that the 1.19 metres is the distance between the pin kerb and the end of the road works determined under P/2013/0242/F.

Talking to Reynold Nicholson the following day 22nd August 2019 in Marlborough House he confirmed that no one was accusing me of engineering key land and that it was for Council Planning to condition the development under P/2013/0242/F to complete the tie-in prior to any other development thus forcing the developers to resolve their title/land issues prior to any other development.

Liam Hannaway
Chief Executive



Comhairle Ceantair
**an Iúir, Mhúrn
agus an Dúin**
**Newry, Mourne
and Down**
District Council

APPROVAL OF PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: **P/2013/0242/F**

Date of Application: **25th March 2013**

Site of Proposed Development: **Lands at Watsons Road/ Dorans Hill Newry including lands to the east of Watsons Road**

Description of Proposal: **Proposed residential housing development of 200 no. units (some with garages), improvements to existing road infrastructure and associated works**

Applicant	MJM Group	Agent	Barry Mc Stravick
Address	Unit 5 Carnbane Business Park Newry BT35 6QH	Address:	Unit 5 Carnbane Business Park Newry BT35 6QH

Drawing Ref: 01 (Rev 3), 03, 04, 05, 06, 07, 08, 09, 10, 17 (Rev 5), 26 (Rev 1), 27 (Rev 1), 28 (Rev 1), 29 (Rev 1), 30 (Rev 1), 31 (Rev 1), 32 (Rev 1), 33 (Rev 1), 34 (Rev 1), 35 (Rev 1), 36 (Rev 1), 37 (Rev 1), 38 (Rev 1), 39 (Rev 1), 40 (Rev 1), 41 (Rev 1), 42 (Rev 1) 43 (Rev 1), 44 (Rev 1), 45 (Rev 1), 46 (Rev 1), 47 (Rev 1), 48 (Rev 1), 49 (Rev 1), 50 (Rev 1), 51 (Rev 1), 52 (Rev 1), 53 (Rev 1), 54 (Rev 1), 55 (Rev 1), 56 (Rev 1), 57 (Rev 1), 58 (Rev 1), 59 (Rev 1), 60 (Rev 1), 80, 81, 82, 83, 84, 85 (Rev 2), 86 (Rev 2), 87 (Rev 1), 88 (Rev 2), 94 (Rev 2), 96, 97, 98, 99, 100 (Rev 2) and 101

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:

Oifig an Iúir
Newry Office
O'Hagan House
Monaghan Row
Newry BT35 8DJ

Oifig Dhún Pádraig
Downpatrick Office
Downshire Civic Centre
Downshire Estate, Ardglass Road
Downpatrick BT30 6GQ

0300 013 2233 (Council)
0300 200 7830 (Planning)
council@nmandd.org
www.newrymouredown.org

Freastal ar an Dún
agus Ará Mhacha Theas
Serving Down
and South Armagh



1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. No development activity shall commence until a Wildlife Management Plan (WMP) has been submitted to, and agreed in writing by, the Planning Authority. The WMP shall be updated prior to each subsequent phase of the development and no development activity shall commence on each subsequent phase until an updated WMP is submitted to the Planning Authority and agreed in writing. All works on site shall conform to the WMP and any amendments to the WMP must be agreed in writing with the Planning Authority. The WMP shall include (but not be limited to) the following:

- a) Aims and objectives of the WMP.
- b) The role and responsibilities of the Ecological Clerk of Works.
- c) Results of updated badger surveys to inform the WMP for the imminent phase of the development, including details of available setts within and adjacent to the site and any changes in sett distribution or activity since the previous survey.
- d) Details of all badger management, mitigation and protection measures carried out during the preceding phase of the development and the results of the monitoring of the effectiveness of such measures.
- e) Setts proposed for permanent closure during the imminent phase.
- f) Setts proposed for temporary closure during the imminent phase.
- g) Timing and scheduling of all sett closures.
- h) Details of the setts which will be available to badgers within and adjacent to the site during and after the imminent phase of the development.
- i) Details of all badger management, mitigation and protection measures to be implemented during the imminent phase of the development, including fencing and planting schedule for badger protection areas.
- j) Proposed monitoring of badger management, mitigation and protection measures and scheduling of further surveys to inform the next update of the WMP.
- k) Details of any tree or hedgerow removal proposed for the imminent phase of the development.



l) Any mitigation measures proposed for the imminent phase of the development for other protected species such as bats and breeding birds.

m) Any emerging issues and proposals for the next plan update.

Reason: To protect badgers and other wildlife on the site.

3. The development shall be phased as shown on Drawing No. 94 (Rev 2), date stamped received 17 October 2018. All construction activity shall be restricted to one phase of the development at a time. There shall be no works, vegetation clearance, disturbance by machinery, dumping or storage of materials within any subsequent phase of the development except as stipulated in the Wildlife Management Plan.

Reason: To allow badgers and other wildlife to adapt to the development over time.

4. No development activity shall commence until a person recognised by the Planning Authority as a suitably qualified and experienced person has been appointed as an Ecological Clerk of Works (ECoW) and the role and responsibilities of the ECoW agreed in writing with the Planning Authority. The ECoW shall be responsible for the production of the WMP and shall supervise all construction activities at regular intervals.

Reason: To protect badgers and other wildlife on the site.

5. There shall be no development activity, vegetation clearance, disturbance by machinery, dumping or storage of materials (except for the hand planting of trees and shrubs) within the badger protection areas or wildlife corridors without the consent of the Planning Authority.

Reason: To protect badgers and other wildlife on the site.

6. No works, including any archaeological excavations, shall take place within 25 metres of a badger sett without the presence of an NIEA Protected Species Licence holder.

Reason: To protect badgers and their setts.

7. No development activity shall commence until a Lighting Plan has been submitted to, and agreed in writing by, the Planning Authority. The Lighting Plan shall include details of all external lighting on the site and measures to mitigate for impacts of artificial lighting on bats and other wildlife. In particular the Lighting Plan shall include:

- a) Specifications of lighting to be used across the site.
- b) Lighting levels to be as low as possible across the site.
- c) A map showing predicted light spillage across the site (isolux drawing).



d) Badger protection areas, wildlife corridors and retained hedgerows to be kept free from any artificial lighting.

Reason: To protect bats and other wildlife.

8. There shall be no tree, scrub or hedgerow removal during the bird breeding season (1st March to 31st August inclusive).

Reason: To protect breeding birds.

9. Prior to the commencement of the development hereby approved, the developer shall submit a plan to the Planning Authority identifying a minimum of 12 units within Housing Zoning NY 53, to the east of Watsons Road within the development hereby approved which will be provided for social rented housing. These units shall be managed and maintained by a Housing Association which is registered and regulated by the Department for Communities as a social housing provider and shall consist of at least:

- 60% shall be 2 bed, 4 person houses, and
- 40% shall be 3 bed, 5 person houses.

Reason: To meet an identified social housing need in the area and to comply with the requirements of the Area Plan.

10. All areas of public open space and communal landscaping as shown on the approved drawings shall be maintained in accordance with a Landscape Management and Maintenance Plan to be submitted to and agreed in writing with the Planning Authority prior to the occupation of any of the dwellings hereby approved. The Plan shall cover a minimum period of 25 years. Should the Management Company dissolve at any stage, then a new Management Company shall be appointed and a new Management and Maintenance Plan shall be submitted to and agreed in writing with the Planning Authority.

Reason: To ensure the successful establishment and long term maintenance of public open space and landscaping in the interests of visual and residential amenity.

11. Prior to any dwelling hereby approved becoming occupied, the developer shall submit to and agree in writing with the Planning Authority, details of the two play areas as indicated on stamped approved drawing No. 17 (Rev 5) date stamped received on November 15th 2018 as well as an appropriate timetable for their completion. These play areas shall be maintained for a period of 30 years from the date of this decision at the developer's expense.

Reason: To ensure that the play area is provided in accordance with all relevant standards.



12. No development shall commence until the developer has obtained from Transport NI and all relevant landowners, agreement for works relating to the connection of footpaths and roads approved by this decision with similar structures, either existing or proposed, in the surrounding area.

Reason: To ensure that a satisfactory network of footpaths and roads, including any boundary walls and vehicle restraint systems, are provided to service the development.

13. No more than those dwellings indicated within Phase 1 of the development hereby permitted, as indicated on drawing No. 96 date received 7th July 2015, shall be occupied prior to the completion of all road works associated with Phase 1 on Doran's Hill, Watsons Road and internal housing roads.

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

14. No more than those dwellings indicated within Phase 2 of the development hereby permitted, as indicated on drawing No. 97 date received 7th July 2015, shall be occupied prior to the completion of all road works associated with Phase 2 on the new distributor road, Glen Hill, Watsons Road and internal housing roads.

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

15. No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted, as indicated on drawing Nos. 96, 97 and 98 all received on 7th July 2015, shall be occupied prior to the completion of all road works associated with Phase 3 on the new distributor road, Watsons Road and internal housing roads.

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

16. Prior to the commencement of any works of the development hereby permitted the proposed roundabout and any associated works will require to be designed in accordance with the relevant section of the Design Manual for Road and Bridges and will be subject to separate agreement by Transport NI.

Reason: In the interests of Road Safety and Traffic Progression.

17. Prior to the commencement of any works hereby permitted, the developer will be required to comply with the legislative process to stop-up and abandon relevant parts identified by Transport NI of the existing Watsons Road. These works will require the



developer to contact Transport NI Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Transport NI.

Reason: In the interests of Road Safety and Traffic Progression.

18. The developer will be required to ensure that the road works associated with this proposal have been subject to the Safety Audit process in accordance with the relevant Department guidelines.

Reason: In the interest of road safety and traffic progression.

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

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 Nos 03, 04, 05 and 06 bearing the date stamped received 14th August 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.

20. The visibility splays as indicated at the junctions of the proposed accesses with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any other works of this development.

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

21. No dwellings shall be occupied until that part of the service road which provides access to it has been completed to base course; the final wearing course shall be applied on the completion of each phase of the development.

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

22. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of each dwelling for the parking of private cars at the rate of 2 spaces per dwelling or otherwise specified.

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



23. The development hereby permitted shall not be occupied until any highway structure/retaining wall/ vehicle restraint system requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

24. Any telegraph poles/street furniture will require to be re-sited to the rear of sight visibility splays.

Reason: In the interests of road safety and traffic progression.

25. The gradient of any side slopes proposed will be a maximum of 1 metre in 2 metres.

Reason: In the interests of road safety and traffic progression.

26. The development hereby permitted shall not be commenced until a street lighting scheme design has been submitted to and approved by the Department for Infrastructure's Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

27. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Infrastructure's Street Lighting Section.

Reason: To ensure the provision of a satisfactory street lighting system for road safety and convenience of traffic and pedestrians.

28. All appropriate road markings and associated signage within the development and on the public road shall be provided by the developer in accordance with the Department's specification (Design Manual for Roads and Bridges) and as directed by Transport NI Traffic Management Section prior to the development becoming occupied by residents.

Reason: In the interests of road safety and traffic progression.

29. The gradient of a private access shall not exceed 8% for the first 5 metres outside the public road boundary and a maximum gradient of 10% thereafter.

Reason: In the interests of road safety

30. Prior to the commencement of any road works, the developer shall provide a detailed programme of works and associated traffic management proposals to DFI Roads for



agreement in writing.

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

31. The developer shall contact DFI Roads Traffic Management prior to the commencement of works on the site to agree suitable positions for any existing road signage and traffic calming measures that will require being relocated as a result of this proposal.

Reason: In the interests of road safety and traffic progression.

32. All areas of open space and landscaping within each phase of development shall be completed in accordance with the stamped approved plans no later than the first available planting season following completion of the relevant phase of development.

Reason: To ensure the areas of open space/ landscaping are brought to an appropriate standard.

33. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised codes of practice.

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

34. 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 local Planning Authority, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the local Planning Authority gives its written consent to any variation.

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

35. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the dwellings 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 Planning Authority.

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

36. No development shall take place until the full details of any retaining walls proposed within the site have been submitted to and approved in writing by the Planning



Authority.

Reason: In the interests of safety and visual amenity.

37. The development hereby approved shall not be commenced until details for the disposal of sewage have been submitted to and agreed in writing by the Planning Authority.

Reason: In the interests of Public Health.

38. The development hereby approved relates only to land contained within the site area boundary as identified in Drawing No. 01 (Rev 3) date stamped received 17th October 2018. Any development outside of the identified boundary in Drawing 01 (Rev 3) shall require separate consent from the Planning Authority.

Reason: To ensure the orderly control of development.

39. A footway shall be provided along the entire site frontage onto Watsons Road in accordance with the phasing programme identified in condition 3 of this notice.

Reason: In the interests of safety and to ensure compliance with the Area Plan.

40. The development hereby approved shall not be commenced until details of drainage works have been submitted to and agreed in writing by the Planning Authority.

Reason: To safeguard the site and adjacent land against flooding and standing water.

41. The development hereby approved shall not be commenced until arrangements for the discharge of storm water have been submitted to and agreed in writing by the Planning Authority.

Reason: To ensure the adequate discharge of storm water on the site

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

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

43. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological



requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

44. No site works of any nature or development shall take place until a fence has been erected around the area specified, on a line to be agreed with the Historic Environment Division: Historic Monuments. No works of any nature or development shall be carried out within the fenced area. No erection of huts or other structures, no storage of building materials, no dumping of spoil or topsoil or rubbish, no bonfires, nor any use, turning or parking of plant or machinery shall take place within the fenced area. The fence shall not be removed until the site works and development have been completed.

Reason: To prevent damage or disturbance of archaeological remains within the application site.



Informatives

1. Private Streets Order (Northern Ireland) 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 Department 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.

2. Separate approval must be received from Transport NI 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.
3. In order to ensure that the laying of ducts and the erection of columns for street lighting is co-ordinated with the construction of the streets, the applicant should contact Transport NI Street Lighting Section at Carn Depot, Portadown before any construction work commences.
4. Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2015, design for any Street Lighting schemes will require approval from Transport NI, Street Lighting Consultancy, Carn Depot Portadown. The Applicant is advised to contact Transport NI 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 (Northern Ireland) Order 1980.
5. 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.
6. The service strips coloured green with black hatching on the approved plan have been determined as lands to be adopted by the DRD. It is, therefore, essential that vendors inform house purchasers 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 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 cross hatched on the 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."

7. It is a Transport NI requirement that all structures which fall within the scope of the current version of DB2 Technical approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted for the Technical Approval Authority through the relevant division.
8. 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 of Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.
9. Rivers Agency will require to be consulted regarding the discharge of any storm water into an existing water course prior to commencement of building works on site.
10. 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.
11. 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.
12. 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.
13. 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.
14. The Rivers Agency has no record of flooding occurring at the site. However, visual



inspection indicates that it may be subject to marginal flooding originating from the watercourse(s) which traverse/bound the site, and developers would be advised to obtain advice from competent, suitably qualified persons to assist them in determining appropriate site and finished floor levels.

15. 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.
16. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

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

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Inspector, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

17. 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 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.

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

18. 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 the otter (*Lutra lutra*). 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.

If there is evidence of otter activity on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

19. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*). It is also an offence to intentionally or recklessly; damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

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

If there is evidence of newts on the site, all works must cease immediately and further



advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

20. 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. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence.

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 tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

21. The Council considers that Leyland and Lawson Cypress (including the variety Castlewellan Gold), are inappropriate in housing 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.
22. This permission authorises only private domestic use of the proposed garages and does not confer approval on the carrying out of trade or business there from.
23. 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.
24. This decision notice relates to drawing No 01 (Rev 3) received on 17th October 2018, drawing Nos 03-10 inclusive all received on 14th August 2019, drawing No. 17 (Rev 5) received on 15th November 2018, drawings Nos 26 (Rev 1) to 60 (Rev 1) inclusive all received on 28th November 2013, drawing Nos 80-84 inclusive all received on 25th March 2013, drawing Nos. 85 (Rev 2), 86 (Rev 2) and 88 (Rev 2) all received on 24th August 2018, drawing No. 87 (Rev 1) received on 15th October 2014, drawing Nos 94 (Rev 2) and 100 (Rev 2) both received on 17th October 2018, drawing Nos 96, 97, 98 and 99 all received on 7th July 2015 and Drawing No 101 received on 17th October 2018.

Dated: 6th September 2019

Authorised Officer _____

Y

8



PRIVATE STREETS
DETERMINATION DRAWING
FOR P/2013/0242/F

TIE-IN TO EXISTING ROAD LEVEL AT
82.887 TO BE AGREED ON SITE WITH
DRD ROAD SERVICE.

1. HARD SURFACED AREA TO BE ADOPTED BY DRD ROAD SERVICE TIES IN WITH HARD SURFACED AREA TO BE ADOPTED BY DRD ROAD SERVICE ON APPROVED DRAWING FB1016-202 PLANNING REF : P/2006/1117/F (RECEIVED BY PLANNING OFFICE 14/03/2013)
2. HARD SURFACED AREA TO BE ADOPTED BY DRD ROAD SERVICE ABUTS THE RED LINE ON APPROVED DRAWING FB1016-200 (ALSO DOE DRAWING NUMBER REF 01 REV 4) PLANNING REF : P/2006/1117/F (RECEIVED BY PLANNING OFFICE 27/12/2012)
3. HARD SURFACED AREA TO BE ADOPTED BY DRD ROAD SERVICE TIES IN WITH TIE-IN ILLUSTRATED ON DRAWING 867-PL/SL/01 REV J PLANNING REF : P/2013/0242/F

KEY	
	HARD SURFACED AREA TO BE ADOPTED BY DRD ROAD SERVICE
	2m HIGH BRICK OR RENDERED WALL
	AREAS TO BE ADOPTED BY DRD ROAD SERVICE
	GULLY
	EXISTING ROAD
	PROPOSED ROAD
	PROPOSED CURB POINT
	PROPOSED KERB LINE
	PROPOSED BOLLARD LINE
	PROPOSED TIE-IN
	PROPOSED SAFETY FENCE

Zak

Note of site visit to Wilsons Road on Mon 16. 7. 19

Present: T. Kelly
R. Loughlin

Private Street
Development Control

- 1. The purpose of the site inspection was to check the boundary of the EDB site & MCM site referring to FSDs
- 2. The existing stone ditch was noted, upon which the hedge was grown, which borders the two sites

- 3. It was judged that the position of the EDB determination was as indicated by dotted line. The position of the MCM determination was deemed the same.

& this is approx the centre of the way north of N20. It is also the centre line of the hedge as best as can be defined.



- The position of the dashed boundary between the two determinations was marked on the ground. It is approximately 500 mm from the edging kerb placed in situ by EDB.

MEETING AT WATSONS ROAD, NEWRY on 16 September 2019 at 11.45

Present: Rowan Laughlin

and Thomas Kelly

- established the middle of the hedge to be 500mm from the pin kerb on site.
- Everyone was in agreement that this was approximately the middle of the hedge.
- I said that the end of the determined area under P/2013/0242/F was 1.19 metres from the pin kerb and that this would leave 0.69 metres not determined for adoption.
- disagreed and said that he has a letter from MJM Doran Hill Ltd which states that the end of the determination is the middle of the hedge on the ground.
- I explained to that at the meeting of 21st August 2019 it was suggested that the pin kerb could be moved 1.19 metres under Article 11 Enforcement. I said that the whole meeting of 21st August 2019 revolved around the 1.19 metres that exists between the pin kerb and the end of the determined area under P/2013/0242/F.
- I reiterated that as far as I am concerned if the pin kerb is moved 0.5 metres to the centre of the hedge there still remains 0.69 metres from the centre of the hedge to the title boundary which has not been determined for adoption. I stressed that this is because the red line boundary end of determined works line of the hedge as detailed under P/2013/0242/F does not accord with the hedge as exists on the ground and as detailed under P 2006 1117 F. I explained to that I had demonstrated this in our meeting of 9th August 2019.

Thomas Kelly
DfI Roads Private Streets Manager
Southern Division

File

DfI Roads
Southern Division



Government
Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

Development Control

Rathkeltair House

Market Street

DOWNPATRICK


BT30 6AJ

Tel: 02844 618185

Your reference:

GMLB/0114297/R00000823

Our reference:

 September 2019

Carson McDowell LLP
4 Murray Street
BELFAST
BT1 6DN

for file
EIR
Car use lot

already done so) have a copy of cot
minutes

Dear

PLANNING APPLICATION P/2013/0242/F FOR HOUSING DEVELOPMENT AT WATSONS ROAD, NEWRY

Thank you for your letter dated 31 August 2019 regarding the above.

I have noted the points you have raised about the extent of roadworks at Watsons Road required to be carried out by your client EDB Construction Ltd and by MJM Dorans Hill Ltd in association with their respective adjoining housing developments.

I recently wrote on 29 August 2019 to your co-representative of EDB, of Campbell and Grant, in response to similar matters which he raised previously had met with my Private Streets Engineer on 8 April 2019 to inspect the boundary of your client's site and that of MGM Doran's Hill Ltd.

In my correspondence with [redacted] I advised that after careful review and all reasonable scrutiny of the respective private streets determination drawings no discrepancy could be identified on plan of the mutual boundary. It was noted however that, as [redacted] correctly pointed out, the MGM determination did extend marginally beyond the planning application boundary. This has been corrected.

In terms of the application of conditions to any approval this would be a matter for the consideration of Newry Mourne and Down District Council as planning authority. I understand [redacted] has been in contact with the Council.

This reply reflects my response to similar representations from who,
as I mention above, has also been in correspondence on behalf of your client
EDB Construction Ltd.

Yours sincerely,

REYNOLD NICHOLSON
Principal Chartered Engineer
Network Planning Manager

cc - Newry Mourne and Down Council

TR2812

Mr Reynold Nicholson
DFI Roads
Development Control
Market Street
Downpatrick
BT30 6AJ

Our ref: GMCB/0114297/R00000823
7
Your ref:

31st August 2019

BY EMAIL AND POST

Dear Mr Nicholson,

Re: Planning Application P/2013/0242/F
My client: EDB Construction

Thank you for your letter received on 22nd August 2019.

Before dealing with the issue at hand, We would take the opportunity to express my surprise as to the reference to an unrelated client of our firm. We are unsure as to why you have chosen to reference our client Council in a context where it is not the local planning authority in this matter nor was it referenced in our letter of 29th July 2019. The client concerned did not exist at the time of the application we drew your attention too. The reference demonstrates a lack of adequate inquiry on the part of DFI Roads, proper consideration and proper understanding of the points made.

Turning to the substance of your correspondence, you make efforts to distinguish the application provided by claiming every case is different on its facts. However, that ignores the point of principle made. The letter of 29th July 2019 acknowledged the difference in type of development sought but outlined that was not relevant to the principle evidenced. DFI Roads cannot satisfy itself, in fact, that in recommending approval and endorsing the PSD as tendered (without the requirement for a negative condition) that the road infrastructure would connect into the existing road network. As pointed out previously it cannot. Without this the statutory and public roads authority has failed in its duty to secure a safe and convenient road network in the public interest and has no powers to achieve this, not least because it cannot interfere with private land ownership rights. It instead is permitting development where the road will not be connected to the public road network and no condition attached to secure such connection prior to the commencement of the development.

DFI Roads has repeatedly been put on notice by this office and others that it cannot in fact achieve tie or connection with the existing road network at Watsons Road. This is because neither the applicant or DFI Roads own/control the requisite land. Further, no such planning permission exists or is applied for to achieve connection / tie in. The planning application and PSD drawings related thereto are incomplete in that they stop short of effecting connection / tie in – the reduction of the proposed road infrastructure works within the confines of the red line boundary only exacerbate this flaw. Further, DFI Roads, on foot of enforcement investigations (instigated by the local planning

authority), have certified under a statutory process the location of the end of our client's road infrastructure works. In so doing, it has confirmed a point our client has been making for a number of years - land lies between the edge of his road infrastructure works and the extent of the planning applicant's land ownership (and reduced planning application boundary). This point has been made by our client throughout the 6-year life of this application and the multiple different owners of the land to which this aged planning application relates during that time. DFI Roads have simply ignored this fact and that notwithstanding our client's planning permission, the changing planning applicants, the changes in road works applied for illustrate the now lacking connection over our client's land. Nothing has changed with the transfer of ownership of the planning application site.

We note with surprise and concern that the PSDs as endorsed are incorrect as to the ability to tie in and DFI Roads has at best misdirected itself and at worse, wilfully endorsed the error thereon given the clear notice it has been given of the inability to connect / tie in. This error goes to the heart of the issues and goes to the lawfulness of the decision.

Further, we would put you on notice that DFI Roads, if it were so minded, cannot revisit that certification process as issued to our client under the statutory regime and to do so after our reliance upon same would be highly questionable, not least because your officials attended site meetings and agreed same. Such conduct, the timing of it and the motive for same would be highly questionable, and if it arises will be challenged by our client. To use any such statutory powers retrospectively to interfere with our client's private property rights would be an abuse of any such statutory powers and ultra vires.

We note you appear to be justifying DFI Road's position by noting its inability to engage in land ownership issues and by inference that you can simply ignore the fact that land outside of the planning application is required to effect connection / tie in with the road infrastructure as contained in the endorsed PSD. If that is the common position of DFI Roads, why for example attach a negative condition to a planning application for requisite visibility splays to be put in place if the land is owned by a third party given the DFI Roads claimed position? That is a standard condition followed throughout Northern Ireland and the rest of the UK. The roads authority simply do not refuse to impose a condition where questions of land ownership arise but rather secure the required access to standard in the public interest by attaching a condition, leaving any private property law issues to the beneficiary of any such planning permission to resolve - an entirely objective and impartial approach. The present circumstances are more fundamental than visibility splays, however, the same principle applies. The approach adopted by DFI Roads, rather than being in the public interest is in contrast in the interests of the planning applicant by the failing to secure and ensure that the connection / tie in will be effected regardless of land ownership by the imposition of a negative condition. It appears that DFI Roads has acceded to the pressure of a planning applicant in endorsing an incorrect PSD drawing and failing to attach a negative condition in the public interest which regardless of land ownership issues is required.

Finally, we note your officials have, despite your comments, suggested conditions to the local planning authority and fail to propose the required negative condition. Plainly,

that error will infect any decision reached by the local planning authority without such a condition.

To conclude, it is apparent that the approach of DFI Roads is deeply flawed, fails to have regard to material consideration, arbitrarily dismisses material considerations and ultimately irrational. Any decision issued by the local planning authority will be infected by these errors and susceptible to challenge.

We would be obliged to receive a substantive response to the issues raised herein and an explanation as to how DFI Roads intend to secure the connection and tie in with the existing road network within 14 days of the date herein

Yours faithfully,

Carson McDowell LLP

CC. Newry and Mourne Planning Department