Department for Infrastructure
An Roinn Bonneagair
Depairtment fur Infrastructure
www.infrastructure-ni.gov.uk

Internal Memo

From: [redacted]
Strategic Planning Directorate

Your Ref: LA06/2018/0997/RM
LA06/2019/0568/RM &
LA06/2020/0129/RM

Our Ref: SUB/2316/2022

Tel: [redacted]

Date: 20 October 2022

To: John O'Dowd MLA
Minister for Infrastructure

cc: Copy distribution below

TO DECIDE THREE PLANNING APPLICATIONS, ONE FOR RESIDENTIAL DEVELOPMENT COMPRISING 167 HOUSING UNITS; ONE FOR VILLAGE CENTRE WHICH INCLUDES (4 NO RETAIL UNITS, CRECHE AND NURSING HOME), RESIDENTIAL UNITS (7 NO. HOUSES, 8 NO. APARTMENTS) AND 10 NO. BUSINESS UNITS SECOND FOR 2 NO. BUSINESS UNITS AND ONE FOR RESIDENTIAL DEVELOPMENT COMPRISING 80 HOUSING UNITS, SOUTH OF THE COPELANDS LINK ROUNDABOUT AT THE COMBER BYPASS, COMBER.

Decision Required ☒ **For Information Only** ☐

Issue: To determine 3 reserved matters application for Residential development comprising - Residential development comprising 167 housing units, open space, access roads, pumping station and other associated works; Village Centre (4 no retail units, creche and nursing home), residential units (7 no. houses, 8 no. apartments above shops) and 10 no. business park units (B1, B2 and B4), open space and pumping station and Residential development comprising 80 housing units, open space, access roads and other associated works.

Timescale: **ROUTINE** (clearance required within 5 working days). The contractor has indicated a desire to be on site to facilitate workforce management over the wider development.

Presentational Issues:	There is potential for media interest given the scale of the proposal. A Press Release will be prepared to accompany issuing of the planning decisions. G.O 20/10/22
FOI Implications:	The submission is likely to be fully disclosable;
Financial Implications:	N/A
Legislative Implications:	N/A
Section 75 Implications:	N/A
Executive Referral:	In light of the recent Woods/SEAT judgment, Executive it is considered referral is not required given these application proposals are not considered significant and/or controversial.
Special Adviser Comments:	
Recommendation:	That you: • Note the contents of this submission; and • Agree that planning officials can issue Notices of Opinion to grant planning consent;

DETAIL

1. Outline Planning Permission was granted by the Department for Infrastructure on 22 December 2016 for a mixed use development including residential, retail, nursing home, sheltered accommodation, crèche, business park (A1, B1, B2 and B4) and extension to salt marsh (Ref: **X/2009/0858/O**).

2. You will be aware of two other phases of the overall development one for residential development comprising 362 housing units and the second for 2 no. business units, which are currently before you for decision - **SUB-2284-2022** refers.

3. The current applications (LA06/2018/0997/RM, LA06/2019/0568/RM & LA06/2020/0129/RM) are 'Reserved Matters' applications relating to outline permission X/2009/0858/0) and seeks to approve the matters reserved i.e. the siting, design, layout, access and landscaping details of the relief road and the housing. Following several amendments on the applications, the detailed

layout and design is now considered compliant with Departmental published policy and guidance, and approval can subsequently be granted.

4. The Department has granted approval for previous Reserved Matters applications relating to the site. These current consents provide for 168 residential units (LA06/2017/0778/RM), and a play area and attenuation basin (LA06/2019/1265/RM).

5. Approval of the current reserved matters applications will allow for 167 housing units (LA06/2018/0997/RM); village centre which includes (4 no retail units, creche and nursing home), residential units (7 no. houses, 8 no. apartments) and 10 no. business units (LA06/2020/0129/RM) and 80 housing units (LA06/2019/0568/RM).

6. All bodies consulted are satisfied with the proposals and have either raised no objection or recommended approval subject to conditions. It is considered that the implementation of the development by the applicant would bring significant benefits in infrastructure delivery.

7. Following careful consideration officials consider that the applications should be approved. A full assessment of the applications is set out in the Development Management Reports at **Annex 1.**

8. Following the Woods judgment (concerning the approval of the North South Interconnector) the Department must consider whether the decision to grant approval would require referral to the Executive. As such consideration has been given to the meaning of the terms 'crosscutting', 'significant' and 'controversial' in the sense intended by the Ministerial Code. It should be noted that in considering these terms there is some degree of overlap in the points made in following paragraphs.

9. It is judged that the interests of any other Department would not be triggered by making a decision to approve this application. There is no indication from any Department, political party or elected member that this is a matter requiring referral.

10. A decision to approve it is not judged to be significant within the meaning of that term in section 20(4) of the Northern Ireland Act 1998. These are applications for reserved matters where the principle of development has already been established. The outline permission is therefore not the subject of this assessment. The purpose of reserved matters applications is to agree the details of the proposal, including siting, layout, design and means of access. It is not judged that any of these details either individually, or in combination are of significance.

11. In addition, in the sense intended by the statute it not considered that this decision would be controversial. All consultees including those from other

Government Departments have raised no objection. Furthermore no objections have been forthcoming from any other Government Minister or any political representatives.

12. In taking all the above in the round it is considered that there would be no sound reason to refer this matter to the Executive, and that these decisions should proceed by way of 'Notice of Opinion' (NOP).

13. For a Reserved Matters application, Section 29(7) of the Planning Act (Northern Ireland) 2011 requires the Department, before determining the application, to serve a 'Notice of Opinion' (NOP) on the applicant and the appropriate council indicating the decision which it proposes to make on the application. NOP's to grant these planning consents are attached at **Annex 2** to issue to Ards and North Down Borough Council and the applicant. The NOP's includes draft conditions, and whilst they may be subject to some minor amendment, they would form the basis for the final decision.

14. A different conclusion to that of Strategic Planning Directorate (SPD) officials may be reached provided it is based on sound planning reasons. Officials can provide further advice on this if required.

15. The Council and applicant have a period of not less than 28 days from the date of service of the NOP in which they could seek a hearing before the Planning Appeals Commission. Where hearings are held the PAC prepares a report and, following consideration of the report a final decision can be made by the Department. If a hearing is not requested by either party, the Department would be in a position to issue the final planning decision after the end of the 28 day period following service of the NOP. Given the strong local interest in bringing forward this development, it is thought that the local Council would welcome the Department's opinion to approve.

Recommendation

16. That you –

- Note the content of the briefing;
- Agree that officials can issue a Notices of Opinion to approve;

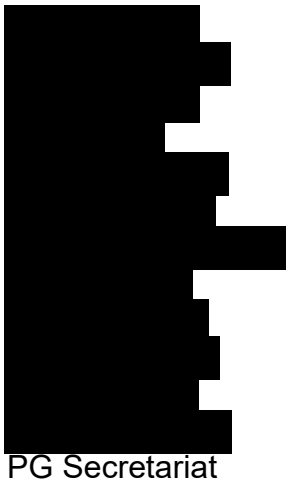
[redacted]

Director of Strategic Planning

Encs:

Annex 1 - Development Management Reports
Annex 2 - Draft Notices of Opinion
Annex 3 - Letter to MLAs

Copy List:



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Department for Infrastructure
An Roinn Bonneagair
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Internal Memo

From: [redacted]
Director, Strategic Planning

Your Ref: SUB/XXXX/2022

Our Ref: LA06/2019/1252/RM & LA06/2018/1295/RM

Tel: [redacted]

Date: October 2022

To: 1. John O'Dowd MLA
Minister for Infrastructure

cc: Copy distribution below

TO DECIDE TWO PLANNING APPLICATIONS, ONE FOR RESIDENTIAL DEVELOPMENT COMPRISING 362 HOUSING UNITS AND THE SECOND FOR 2 NO. BUSINESS UNITS, SOUTH OF THE COPELANDS LINK ROUNDABOUT AT THE COMBER BYPASS, COMBER.

Decision Required	For Information Only
☒	☐

Issue: To determine 2 reserved matters application for Residential development comprising 362 housing units, open space including linear walkway and saltmarsh creation, access roads, pumping station and other associated works, and 2 no. Class B1(b) or B1(c) business units with associated car parking, access roads, pumping station, landscaping and other site works.

Timescale: **ROUTINE** (clearance required within 5 working days). The contractor has indicated a desire to be on site to facilitate workforce management over the wider development.

Presentational Issues: There is potential for media interest given the scale of the proposal. A Press Release will be prepared to accompany issuing of the planning decisions. (Cleared ag 11/10/2022)

FOI Implications:	The submission is likely to be fully disclosable;
Financial Implications:	N/A
Legislative Implications:	N/A
Section 75 Implications:	N/A
Executive Referral:	In light of the recent Woods/SEAT judgment, Executive it is considered referral is not required given these application proposals are not considered significant and/or controversial.
Special Adviser Comments:	
Recommendation:	That you: • Note the contents of this submission; and • Agree that planning officials can issue Notices of Opinion to grant planning consent;

DETAIL

1. Outline Planning Permission was granted by the Department for Infrastructure on 22 December 2016 for a mixed use development including residential, retail, nursing home, sheltered accommodation, crèche, business park (A1, B1, B2 and B4) and extension to salt marsh (Ref: **X/2009/0858/O**).

2. The current applications (LA06/2019/1252/RM and LA06/2018/1295/RM) are 'Reserved Matters' applications relating to outline permission X/2009/0858/0) and seeks to approve the matters reserved i.e. the siting, design, layout, access and landscaping details of the relief road and the housing. Following several amendments on the applications, the detailed layout and design is now considered compliant with Departmental published policy and guidance, and approval can subsequently be granted.

3. The Department has granted approval for previous Reserved Matters applications relating to the site. These current consents provide for 168

residential units (LA06/2017/0778/RM), and a play area and attenuation basin (LA06/2019/1265/RM). Approval of the current reserved matters applications will allow for 362 residential units and associated public spaces LA06/2019/1252/RM), and Business units with associated developments (LA06/2018/1295/RM).

4. All bodies consulted are satisfied with the proposals and have either raised no objection or recommended approval subject to conditions. It is considered that the implementation of the development by the applicant would bring significant benefits in infrastructure delivery.

5. Following careful consideration officials consider that the applications should be approved. A full assessment of the applications is set out in the Development Management Reports at **Annex 1.**

6. Following the Woods judgment (concerning the approval of the North South Interconnector) the Department must consider whether the decision to grant approval would require referral to the Executive. As such consideration has been given to the meaning of the terms 'crosscutting', 'significant' and 'controversial' in the sense intended by the Ministerial Code. It should be noted that in considering these terms there is some degree of overlap in the points made in following paragraphs.

7. It is judged that the interests of any other Department would not be triggered by making a decision to approve this application. There is no indication from any Department, political party or elected member that this is a matter requiring referral.

8. While this application falls to be considered as a major development as prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011, a decision to approve it is not judged to be significant within the meaning of that term in section 20(4) of the Northern Ireland Act 1998. This is as this is an application for reserved matters where the principle of

development has already been established. The outline permission is therefore not the subject of this assessment. The purpose of reserved matters applications is to agree the details of the proposal, including siting, layout, design and means of access. It is not judged that any of these details either individually, or in combination are of significance.

9. In addition, in the sense intended by the statute it not considered that this decision would be controversial. All consultees including those from other Government Departments have raised no objection.

10. In taking all the above in the round it is considered that there would be no sound reason to refer this matter to the Executive, and that this decision should proceed by way of 'Notice of Opinion' (NOP).

11. For a Reserved Matters application, Section 29(7) of the Planning Act (Northern Ireland) 2011 requires the Department, before determining the application, to serve a 'Notice of Opinion' (NOP) on the applicant and the appropriate council indicating the decision which it proposes to make on the application. NOP's to grant these planning consents are attached at **Annex 2** to issue to Ards and North Down Borough Council and the applicant. The NOP's includes draft conditions, and whilst they may be subject to some minor amendment, they would form the basis for the final decision.

12. A different conclusion to that of Strategic Planning Directorate (SPD) officials may be reached provided it is based on sound planning reasons. Officials can provide further advice on this if required.

13. The Council and applicant have a period of not less than 28 days from the date of service of the NOP in which they could seek a hearing before the Planning Appeals Commission. Where hearings are held the PAC prepares a report and, following consideration of the report a final decision can be made by the Department. If a hearing is not requested by either party, the Department would be in a position to issue the final planning decision after the

end of the 28 day period following service of the NOP. Given the strong local interest in bringing forward this development, it is thought that the local Council would welcome the Department's opinion to approve.

Recommendation

14. That you –
    - Note the content of the briefing;
    - Agree that officials can issue a Notices of Opinion to approve;

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Director of Strategic Planning

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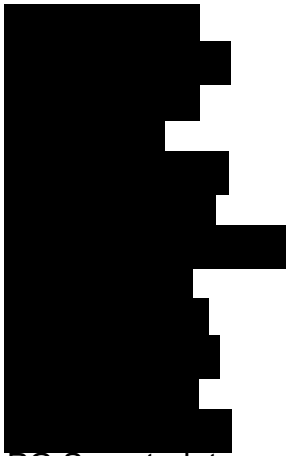

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