

**EIR Request (received 14 January 2022) - Reference: DFI/2022-0017**

- 1) Planning Application LA05/2018/1154/O for the proposed mixed use development to include new housing (1300 dwellings) and commercial floor space (770,000 sq. ft.) 1.6km M1-Knockmore link road, riverside parkland and ancillary works; and
- 2) Planning Application LA05/2018/1155/F for the construction of a new link road (1.6km) connecting the existing M1 junction 8/A101 roundabout to existing Moira/Knockmore Road Junction

I refer to the above and we understand that the Department as of 4th January 2022 has exercised its powers in accordance with Section 29 of the Planning Act (Northern Ireland) 2011 to 'call in' the applications.

My client has not yet received a copy of the correspondence calling in the applications or any report underpinning that decision.

I hereby email on behalf of my client to request a copy of the following:

- (1) the correspondence notifying the Council of the Department's decision;
- (2) a copy of the decision document along with any report underpinning that decision and setting out the reasons for such a decision;
- (3) a copy of the memorandum, briefing paper or any such other document, setting out the recommendation (or decision) of the Strategic Planning Directorate within the Department to the Minister;
- (4) a copy of the case officers report to senior management in the Strategic Planning Directorate upon which it based its recommendation to the Minister;
- (5) any memorandum or direction or such other communication indicating the decision of the Minister to the Strategic Planning Directorate;
- (6) A copy of the minutes, the attendees and a record of matters discussed at any meetings held between the Minister and the Strategic Planning Directorate;
- (7) all dates and minutes of meetings held by the Strategic Planning Directorate of the Department relating to the Applications and the decision to call in the application along with any papers or documents presented or discussed at any such meetings;
- (8) a copy of any representation, correspondence or communication received by the Department, the Strategic Planning Directorate, the Minister or the Minister's office and advisors relating to the call in of the Application from any third party; and

- (9) a copy of all papers held by the Strategic Planning Directorate within the Department pertaining to the Application not limited to the consideration of the call in of the Applications.

I look forward to receipt of same in early course. If matters are easily to hand and can be provided quickly I do not wish the provision of those documents to be delayed by other items within the request which may take longer to provide.

### **Response (issued 11 February 2022)**

- 1) Planning Application La05/2018/1154/O for the Proposed Mixed Use Development to include new housing (1300 dwellings) and commercial floor space (770,000 Sq. Ft.) 1.6km M1-Knockmore Link Road, Riverside Parkland and ancillary works; aand
- 2) Planning Application La05/2018/1155/F for the construction of a new Link Road (1.6km) connecting the existing M1 Junction 8/A101 Roundabout to existing Moira/Knockmore Road Junction.

Thank you for your email of 14 January 2022 requesting a copy of information in relation to the above referenced planning applications on behalf of your client, Neptune Carleton LLP.

Your email makes several references to the 'Strategic Planning Directorate' (SPD). However, I feel it is important to clarify here that the Department's Planning Group consists of two directorates, SPD and Regional Planning Directorate (RPD). Planning notifications and third party 'call in' requests are considered by RPD whereas when an application is 'called in' to the Department this is processed by SPD. For the purposes of your information request, I have therefore considered that any references made to SPD are references to RPD. If this is not the case, please let the Department know as soon as possible.

Furthermore, I note from your email that your client has not yet received a copy of the correspondence which confirmed the referral of the subject applications. You may be aware that it is the responsibility of the relevant council to inform the applicant of these Directions. Article 10 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 requires a council to serve a notice on the applicant setting out the terms of the Directions, any reasons given by the Department for requiring the applications to be referred to it, that the applications have been referred to the Department and that the decision of the Department is final. Notwithstanding the above, your request for a copy of this information is considered below.

In considering your request on behalf of the Department, I have determined that the information requested falls under the aegis of the Environmental Information Regulations 2004 (EIR), as opposed to Freedom of Information Act 2000. Your request is for information that relates to activities, policies or plans that affect the environment. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information.

A guide explaining the Environmental Information Regulations can be found at:

<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/what-are-the-eir/>.

The Environmental Information Regulations established general public rights of access to environmental information held by public authorities, similar to the general rights established under FOI. There is no provision for privileged access to information, it may either be released to the World at large, or it must be withheld. Any information provided in response to an information request (either FOI or EIR) is considered to have been placed in the public domain.

In response to your request, and following consideration of the public interest in this case, I attach all information held that is suitable for disclosure to the public. The information being disclosed, in response to your questions, is as follows:

- (1) The correspondence notifying, via an email and the referral Directions, Lisburn and Castlereagh City Council (LCCC), dated 04 January 2022, are attached;
- (2) I attach the Minister's decision email to 'call in' the application and the Department's notification assessment document (Appendix 1), dated 26 November 2021;
- (3) The Department's submission to the Minister, dated 14 December 2021, is included in the material being released;
- (4) This was included with the information provided in response to question 2 of your request. The Department's notification assessment document (Appendix 1), dated 26 November 2021, has been attached;
- (5) As referred to, in the response to q2, above, an email dated 29 December 2021 from the DfI Private Office and indicating the Minister's decision is included in the material being released;
- (6) The Department does not hold any records of formal meetings, minutes, attendees or any record of matters discussed, as none took place between the Minister and RPD in relation to these applications;

- (7) The Department does not hold any information relating to dates, minutes or other documents associated with meetings within DfI Regional Planning Directorate regarding the Applications or call-in decision. Whilst regular updates were provided at internal team meetings in relation to all notifications, including the two applications referred to in your request, these team meetings are largely not formal or minuted and, as a result, no minutes of these meetings are held by the Department;
- (8) The Department received a number of communications from third parties relating to the call-in, and the following information is attached:
- a letter from Mr. Aidan Thatcher, Belfast City Council, dated 2 April 2021;
  - a notification letter from LCCC dated 12 May 2021;
  - an email relating to contact from Pat Catney MLA dated 02 November 2021;
  - emails to Angus Kerr from the applicant and agent for the applications from 14 October 2021 to 10 December 2021;
  - an email from The Ulster Star dated 05 January 2022;
  - emails from The Newsletter dated 05 and 10 January 2022;
  - an email from The Irish News dated 10 January 2022;
  - and a Blaris call-in press enquiry dated 11 January 2022: and
- (9) The following records, pertaining to the Applications, not just the consideration of the call-in the Applications, is also attached:
- a letter to LCCC dated 14 January 2019;
  - a letter to Mr. Aidan Thatcher, Belfast City Council, dated 26 April 2021;
  - the LCCC Development Management Officer Report - Blaris Mixed Use;
  - the LCCC Development Management Officer Report - Blaris Link Road;
  - a copy of LCCC's Blaris - Statement of Reasons;
  - a letter to LCCC dated 26 May 2021;
  - and a letter to Pat Catney MLA dated 15 November 2021.

Following consideration of the public interest in this case, I attach all information held that is suitable for disclosure to the public. However, I have determined that some of the requested information is not suitable for release and the attached records have been redacted for the following reason. The redacted information constitutes third party personal data within the

meaning of the Data Protection Act 2018 (DPA). A public authority may only release third party personal data if to do so would be fair, lawful and would meet the conditions in Schedule 2, 3 or 4 of the DPA. The Department may not disclose personal information to the public in contravention of any of the data protection principles (Article 5(1) UK General Data Protection Regulation or sections 34(1) and 85(1) DPA) and must consider all consequences of disclosure in each case. The information provided has therefore been redacted under the exception provided under EIR by Regulation 12(3) & 13: personal information. I am satisfied that the public interest is best served by withholding this information.

There are also a number of routine/administrative emails which have not been released. For your information, examples of such emails includes acknowledgement emails and documents and emails which have been circulated internally for information purposes. In addition some information, comprising legal advice provided to the Department and officials' discussion of that advice, has been withheld because the information is considered to be subject to legal professional privilege. Legal professional privilege is a long-standing convention within the common law system, and is designed to protect the relationship between a legal advisor and client. This legal professional privilege is recognised and protected in the Environmental Information Regulations by Regulation 12(5)(b): the course of justice and inquiries. This exception extends to cover privilege for both litigation and advice provided, and extends to include further discussions of that advice within the public authority. I have considered the public interest in disclosure of this information and I am satisfied, in this case, it supports the Department's use of the exception to withhold this information

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