

NEWS

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CLYDE SHANKS

Planning Development





PLANNING LAW

NEW COUNCILS

A REFLECTION ON THE NEW SYSTEM

WELCOME TO THE SECOND EDITION OF OUR NEWSLETTER. IT HAS BEEN A VERY BUSY SECOND HALF OF 2015 AND OUR TEAM HAS BEEN ACTIVE PROGRESSING DEVELOPMENT PROPOSALS ACROSS A WIDE RANGE OF SECTORS THROUGHOUT ALL OF THE ELEVEN NEW PLANNING DEPARTMENTS WITHIN THE NEW COUNCILS.

When capturing our thoughts for our first edition change was upon us.

We have now been operating the new planning system for nine months. So what are our thoughts on how planning applications are being processed?

Has there been improved engagement with the new planning departments and how are the respective Planning Committees taking decisions?

Have we got a better system? Is there increased certainty around the timing and programme for a decision? Is there now an improvement in the overall quality of planning application submissions and are the new Councils performing better than DoE Planning teams of old?

Planning performance has always been about the personalities of senior planning officials and their team. In any efficient organisation success is normally attributed to strong leadership and a commitment to perform to the best level of service possible.

The Councils which have performed better have done so because those leading them have a desire to run them like a business and to foster that attitude throughout their team. That is true of Antrim and Newtownabbey and Mid-Ulster in particular who are to be congratulated for their refreshingly open approach.

Dealing with these teams has been markedly much more responsive because they make themselves available and are easily contactable through direct access to their officers.

“The Councils which have performed better have done so because those leading them have a desire to run them like a business and to foster that attitude throughout their team.”

Sadly, there remains a cautious and laboured approach across too many of the Council planning teams who remain wedded to the inherent delays of the NI Direct

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NEW COUNCILS

A REFLECTION ON THE NEW SYSTEM

holding bay- inevitably embracing an unnecessary further administrative layer and cumbersome burden to the system.

With the new Council arrangements the old 'them and us' mentality between the DoE Planners and consultation with local Council planning committees has gone.

One of the first objectives of the transition to the new set up has been to attempt to change the mind-set that the new planning teams are no longer DoE employees but Council members of staff and to integrate them to Council expectations.

That has meant a fundamental change for the most senior members of the Council planning teams who invariably are now present at evening planning committee meetings which was certainly not always the case in the past!

Getting applications on the Council schedule now places a much sharper focus on securing an opportunity to present to the Committee and attending to address issues and Councillor questions that arise.

That is critical to protecting client interests and ensuring that a resolute summary of the merits of application proposals are made clear. Equally, being on hand to rebut any objections that have been raised in a simple and persuasive manner is key to progress. The danger of not being prepared lies in the very real prospect of applications being refused or delayed for reasons that could and should be avoided with a diligent, proactive and well prepared approach.

Articulating the case for applications now demands complex issues to be distilled in to headline points and to communicate to Members why their officers are right to recommend approval and not to be swayed by the nature of objection submissions before them. It is here where Members are often uneasy. It runs counter to all of their senses to go against constituents and voters where before their role was much less daunting without the burden of having to make decisions!

Members are slowly growing in confidence and challenging officer recommendations which further

reinforces the need to be present at committees to present the case in favour of approval.

That is where the planning and political threads are key to timely decisions. Ensuring there is a clear understanding of what type of development is proposed, how it relates to development plan and wider planning policy context, the economic and environmental benefits associated with it and, where deemed important, arranging site visits to comparable developments have all proved to be important in our experience of securing permissions for our clients.

We have had a mixed experience of the speed and responsiveness of the new Council teams.

Lack of resource and drawn out administrative processes continue to hamper the pace of application determination.

Where we have experienced frustration at a lack of progress it can be difficult to get a focus and senior official intervention to move things along. Persistence and diligence in our monitoring and chasing remain the only way to get things done. That is the added value that we bring to our clients, taking care to do this in a professional and measured manner.

Nine months on and in to 2016 the change to the new Councils continues to be an excuse for the delay in decision making and processing timescales. There has been a slowdown in turnaround times across the majority of the new Councils.

The promised change and improvement from the days of DoE Planning has largely failed to materialise. As advisers to Northern Ireland's largest employer, Moypark, on their regional expansion programme we have watched application determination timeframes lengthen by some 6-8 weeks on average with consistency difficulties across the various planning teams. There is much room for improvement.

As a consultancy dealing with a high volume of diverse applications across all property sectors we would urge a glance to the efficient approach and responsiveness of Antrim and Newtownabbey and Mid Ulster. They recognise that the key to performance is in being approachable and responsive in their service delivery. As we move in to 2016 we trust that they will not remain in the minority and that improvement will occur across the province.

DEVELOPMENT

LOOK WHAT IS COMING OUT OF THE GROUND

Having celebrated four years in business in September it is pleasing to now see a number of the schemes we have secured planning permission for either constructed or in construction.

Examples include the multiplex cinema and restaurant village at Craigavon, anchored by Omniplex; Belfast's first apartment development since 2008 at Dublin Road for the Richland Group, due for completion in Autumn 2016; a new modern car showroom facility for VW Phillips at Saintfield Rd in Lisburn; the Eikon events space complex for RUAS at Balmoral Park and the now energised £16.8m Monnaboy windfarm for Gaelectric in Co. Derry.

INDUSTRY

PLANNING MAGAZINE CONSULTANTS SURVEY

The 2015 Planning Magazine Consultancy Survey has confirmed our status as the largest independently owned planning consultancy operating across Northern Ireland.

Our continued growth has seen us rise a further seven places in the league table of largest UK employers of planning professionals. That also confirms our status as the largest locally owned employer of planning professionals operating in Northern Ireland. We are very proud to have achieved this status within four years of establishing the company.



DESIGN

GRAPHIC DESIGN

Having launched our graphic design service to complement our core planning work 2015 has seen us deliver excellence in the quality of the submissions we have prepared on behalf of our growing housing client base. Our design concept, design and access, supporting planning statements, and community consultation exhibition boards are without equal in the Northern Ireland market and are valued by clients for the highly professional impression they create.

These skills have attracted a wider client base as we have expanded to provide company branding, website design, housing brochure production, sales brochures, restaurant menus and event publicity material for a diverse range of new and repeat clients.

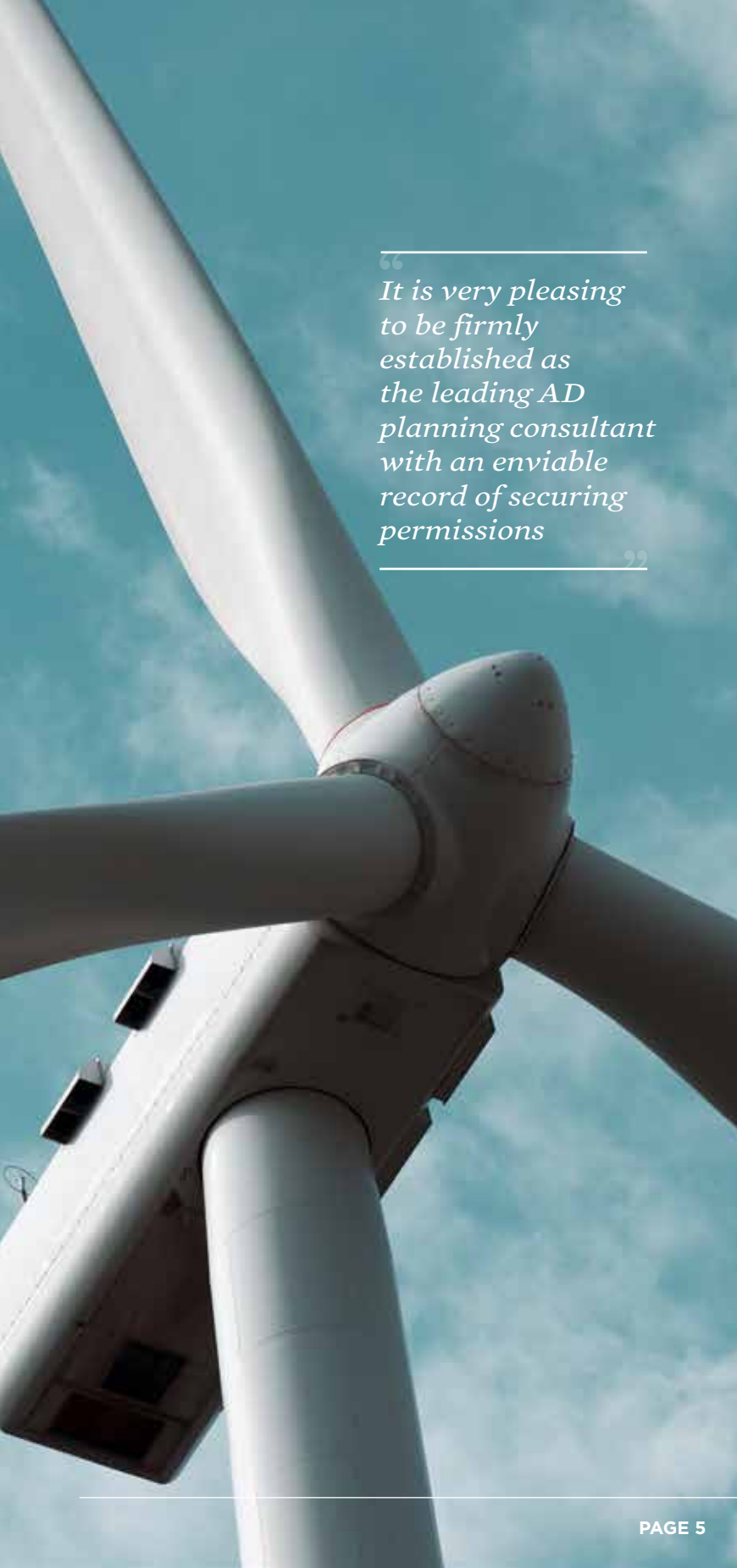
DESIGN

REFRESHED WEBSITE

As we start 2016 and now in our fifth year of business we have refreshed our website which has a more user friendly style and increased content, showcasing our diverse project work across all property sectors. We invite you to take a look to see what we are up to and who we are acting for across the province.

www.clydeshanks.com





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*It is very pleasing
to be firmly
established as
the leading AD
planning consultant
with an enviable
record of securing
permissions*
”

ENERGY

CONTINUED FOCUS ON RENEWABLE ENERGY

The second half of 2015 has kept us busy in securing planning permissions for a range of renewable energy clients. In the last few months of 2015 this has included additional other environmental information preparation in respect of large windfarm sites and leading preparation of appeal evidence with Senior Counsel for major windfarm developments in Co.Derry and Co. Antrim.

These have continued despite the uncertainty over the ROCs regime. This has had an inevitable impact on single wind turbine instructions given the constraints placed on this by DETI's closure of the current incentives.

We have been busy with several solar farm application submissions over the last quarter of 2015 for installations just below the 5MW threshold. That has involved substantial consultant team co-ordination to address the necessary environmental studies, public consultation and application preparation across a number of local Council areas. We look forward to these progressing promptly through the system in the early months of 2016.

As the ROC regime enters 2016, it is likely there will be a slowing down of Anaerobic Digestion (AD) projects in the run up to April 2017 for non-wind technologies. It is very pleasing to be firmly established as the leading AD planning consultant with an enviable record of securing permissions for a considerable number of projects across the region including several that were very challenging and attracted much public objection. Many of the projects are now operational or in construction with a client portfolio including Stream BioEnergy, Par Renewables, Amber Green Energy, McCulla Ireland and Thompson Recycled Oils.

FOCUS ON HOUSING

Pleasingly the housing market is continuing to improve with an increasing appetite to move beyond acquisition of sites and a re-engagement in planning and securing market appropriate planning permissions for housing.

The second half of 2015 has seen a welcome increase in the level of our housing work with a significant upturn in demand for overall co-ordination of housing proposals, appointing the necessary professional consultants and preparation of design and access statements and planning application submissions across Northern Ireland.

We have secured planning permission for a first phase of development on one of the province's most valuable sites on the former RUAS Showgrounds at Balmoral for Blue Horizon/Hilmark and have submitted the application for Phase 2, including our trademark high quality design concept statements which have secured pleasing feedback from the new Council planners for their attention to detail and simplicity. We are also advanced in planning for a further Blue Horizon site in Newtownards.

We are close to securing permission for 24 dwellings on a former MOD site of Harmony House in Lisburn, co-ordinating all wider environmental team input, preparing the design and access statement and supporting planning statement and leading the engagement with the Council and consultees for leading local firm ME Crowe.

We have secured a first phase of 21 units at Mullaghboy Lane in Magherafelt for Mullaghboy Construction and are presently progressing Phase 2 which will deliver a further 79 units within Mid Ulster Council.

We have also been instructed by Roehill Properties to review and rejuvenate the planning process on the former Gorteen Hotel site in Limavady and to instigate a fresh change of house types application that is current market appropriate. Work is underway with a revised submission to Causeway Coast and Glens Council anticipated in early 2016.

We are also re-engaging with reviews of large housing zonings across NI which are emerging from the downturn and requiring a fresh review of planning and infrastructural status and expect to be pursuing new permissions through 2016 to enable market responsive housing to come forward.

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WASTE

FOCUS ON WASTE

In September 2015 the DoE Minister issued a notice of opinion to refuse planning permission for arc21's MBT and EfW plants at Hightown Quarry despite all statutory consultees returning no objections and DoE's professional planning recommendation to approve. Consequently arc21 has submitted a request for a hearing before the Planning Appeals Commission and we look forward to this, probably at the end of summer 2016.

The uncertainty around implementation of a regional scale waste recovery

solution appears to have contributed to increased investment from existing waste operators investing in their current and indeed, new sites.

For example, in the last year we have secured planning permission for a new £1.5 million Glassdon Recycling for Waste Electrical and Electronic Equipment (WEEE) and Mixed Dried Recyclables Facility in Toome, additional EWC codes and waste recovery plant for ISL Waste Management based in Mallusk, a new state-of-the-art medical waste recycling facility outside

of Ballymena on behalf of Aegis Environmental Ltd and full permissions for Material Recovery Facilities outside Portadown and Lisburn on behalf of Skipway Waste Management Ltd.

Finally, while the global market has seen a significant depreciation of metals, we have secured permissions for several End of Life Vehicle Facilities (ELVs) on behalf of T-MET, Lavery Recovery, Higgins Dismantlers, Vance Recovery, Mclvor Vehicles Dismantlers and A1.



LEISURE

PLANS FOR THE OPEN 'PAR' ON

Having secured full planning permission for the modifications to Royal Portrush Golf Club and the upgrading of its infrastructure to facilitate the hosting of the Open Championship we have continued to assist the R&A's architect, Mackenzie Ebert, in the discharging of conditions. Since our last newsletter edition the date for the Open was announced by the R&A at a press conference in October 2015, confirming its return to the Dunluce links from 18-21 July 2019.

Work to construct the new holes on Dunluce and the Valley links has progressed rapidly since summer 2015 and this is set to continue apace throughout 2016.

We also secured planning permission in the second half of 2015 for the relocation of the RUAS's conference facility to its new home at Balmoral Park. This is now known as the Eikon Centre which held its first event in October 2015.

RETAIL

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The introduction of the Strategic Planning Policy Statement (SPPS) in September 2015 has altered the policy context for retail development in Northern Ireland, replacing the previous policy guidance of PPS5.

This places a focus on a town centres first approach for retail and main town centre uses. It specifically introduces a requirement for sequential test analysis to be required for planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Development Plan (LDP). Similarly, in the absence of a current and up-to-date LDP Councils should require applicants to prepare an assessment of need that is proportionate to support their application.

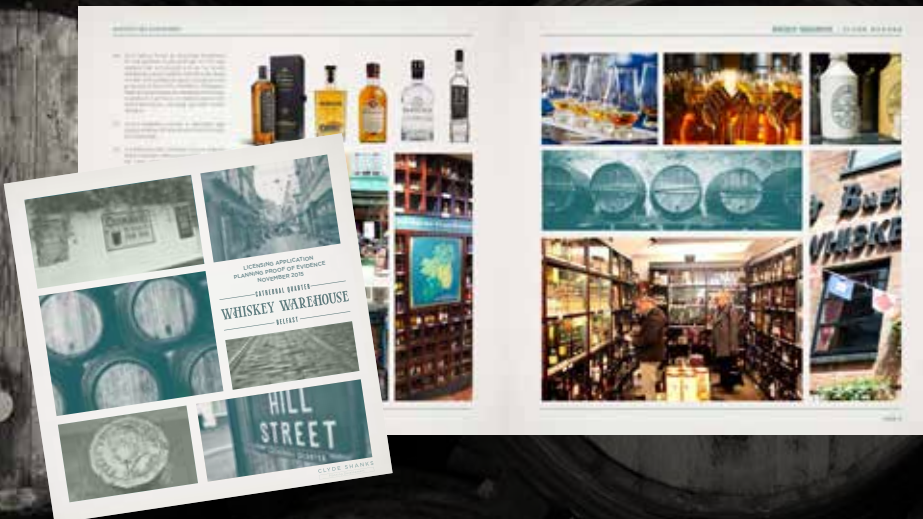
Our team is presently assessing the impact of the new SPPS and in the early stages of preparing planning applications for foodstore development in Greater Belfast and Portadown. We are also acting on behalf of Hammerson against a proposal to develop an out of centre foodstore on former Bombardier land at Newtownabbey.

LICENSING

LIQUOR LICENSING

We continue to grow our work in this area and have achieved notable success in December for our client, Commercial Court Inns. Commercial Court Inns forms part of the Hamilton and Kirk portfolio of licensed premises which includes Belfast's Duke of York, the Harp Bar and Dark Horse amongst its stable.

Instructed by Linus Murray of O'Reilly Stewart solicitors we first secured change of use from café to a specialist off sales in the Cathedral Quarter's Hill Street. This was then followed by preparation of vicinity and adequacy/need evidence for a County Court hearing in early December 2015 presented by Turlough Montague QC.



The case was heard by His Honour Judge Devlin and our planning proof demonstrated substantial visitor and tourist demand within the ever burgeoning entertainment destination of the Cathedral Quarter. The licence was granted with His Honour commenting that 'the application has been well prepared, well researched and well presented'.

Commercial Court Inns will develop what will be Northern Ireland's first specialist off sales with a focus on high end whiskey, gin and vodka products close to the former Old Bushmills Distillery's bonded warehouse in Hill Street. It is expected to be trading before the end of 2016.

Our wider liquor licensing work saw three new instructions as 2015 closed for a mix of new off sales and objection to proposed facilities in different parts of Belfast.

AGRIFOOD SECTOR CONTINUES TO GROW

Since the beginning of 2014 we have managed Moypark's expansion programme across Northern Ireland which involves co-ordinating a high volume of planning application submissions for new poultry houses across the province.

This involves ensuring consistency across four retained architectural practices, leading engagements with the local Council planning teams and NIEA and co-ordination, preparation and production of Environmental Impact assessments where these are triggered by bird numbers on individual sites.

This has included trying to lessen the impact of the change from DoE Planning to the new 11 Councils and the loss of the former strategic Moypark team in the former Divisional office in Ballymena.

Application processing times have suffered as a consequence of the changeover to the new Councils as planning officers coming new to these proposals have been tasked with getting to grips with the issues involved in the applications. We hope to see improvement in the speed with which these are determined in 2016.

Our agrifood work has also pleasingly grown through 2015 with notable success achieved for Northway Mushrooms, a collective of mushroom growers. We secured full planning permission for an In-Vessel Composting facility within a 15,000 sq m facility at Ballygawley. This is a £15million investment in this new technology and construction work is anticipated to commence in 2016.

We are advising Cornacrieve Mushrooms on a new Research and Development Facility in Co. Tyrone.

We are also currently progressing an application for the development of four pig breeding units outside Limavady on behalf of our client, PCM, to house over 2,000 sows. This has included the preparation of an Environmental Statement to address potential environmental impacts including odour and effluent disposal.

The proposal represents a £7.4m capital investment and will be a key contributor to achieving the Agri-Food Strategy Board targets of growing the number of sows produced in Northern Ireland by 40% by 2020. It is expected that the application will be presented to the local Council planning committee early in 2016.



REFLECTING ON 2015

CLARE JACKSON, SENIOR PLANNER



2015 in the Clyde Shanks office has been yet another whirlwind with lots of new legislation and Council dynamics to quickly get our heads around.

These changes have certainly added a new dynamic to my job role, and indeed everyone's in the office, in terms of political lobbying and awareness, attendance at Council meetings and presentations to the local Councils.

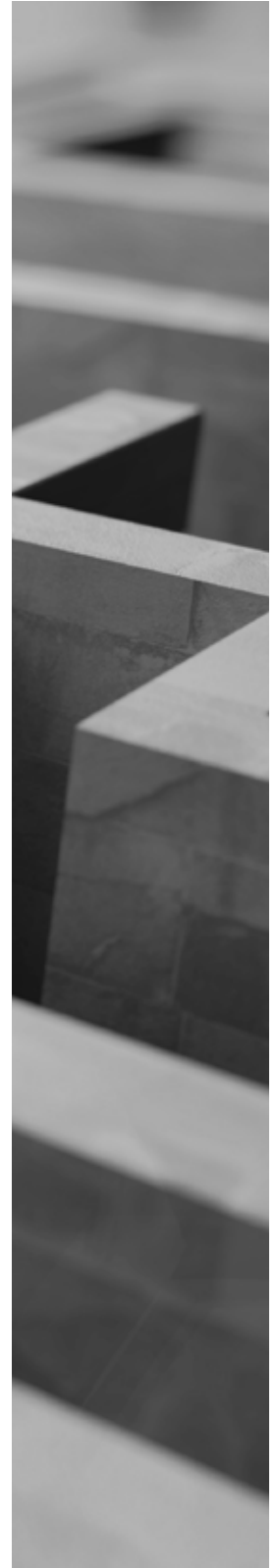
I have quickly learnt that, depending on the nature of the application to be discussed and which Council area it falls within, these Council meetings are not for the fainthearted and indeed you should always be prepared for the unexpected. The pressure of being able to publicly present the best possible planning case in a short space of time has been something which I have enjoyed and is something we will continue to develop as an office as we gain a better understanding of personalities and individual Council's 'do's and don'ts'.

Setting the changes to one side, this year has also been a very positive one in terms of results for some of the projects I've been lucky to be involved in. The majority of my everyday workload has remained within the Anaerobic Digestion (AD) and waste sectors - two sectors which are always subject to local contention!

For the arc21 Residual Waste Treatment Project in Mallusk, it was reassuring that all our hard work and time dedicated to pulling together a quality application submission was not lost when we secured a recommendation to approve in July of this year. On a personal level, I found the Minister's decision to later overturn his official's recommendation disappointing and an obvious example of where planning meets politics but I look forward to seeing what challenges 2016 has to bring on this project.

Despite the uncertainty regarding renewable incentives, I have continued to be heavily involved in a number of AD projects across the region. The most pleasing AD result for me this year was securing permission for a 500kW on-farm plant outside Armagh. The level of local objection made this one of the most comprehensively assessed applications I have been involved in and also as one of the first applications I submitted after joining the company in 2012, I was delighted to see it over the line with it having been recommended for approval three times previously!

I am in no doubt that with my start to 2016 so far in Clyde Shanks, a number of new personal challenges and exciting projects to deliver lie ahead.



TEAM

COMPANY NEWS

Our team was further strengthened with the appointment of a new Graduate Planner in September. Matthew Doak, a graduate of Queens University, brought our team to eight professional staff. He is supporting our Senior Planners, Associates and Director across a wide spectrum of planning work.

2015 also saw a further team member secure RTP1 Chartership bringing our team to five Chartered members.

We held our inaugural client golf day at Royal Portrush in October when we enjoyed one of the sunniest days of the year. We hope to make this an annual event and thoroughly enjoyed hosting our golf playing clients who proved very good company.

CHARITY

This year our chosen charity was Alzheimer's Society and through very generous support from clients and professional contacts we managed to raise some £2300. We endured the considerable challenges of the Rathlin Island 10 mile and Causeway Coast half marathon in doing so!

We also focused on outreaching to community organisations including securing planning permission for a new wind turbine for St. Enda's GAC based outside of Glengormley and sponsoring Lisnagarvey Hockey Club in their home game against Cookstown in the Irish Hockey League.



CLYDE SHANKS

Planning Development

5 Oxford Street
Belfast BT1 3LA

t | 028 9043 4393

clydeshanks.com

For all planning enquiries
please contact

Clyde Shanks
clyde@clydeshanks.com

Gavin Rolston
gavin@clydeshanks.com

Thomas Bell
thomas@clydeshanks.com

For all graphic design enquiries
please contact

Rachel Graham
rachel@clydeshanks.com