

WEST DUNBARTONSHIRE COUNCIL**Report by Chief Officer: Resources****Infrastructure Regeneration and Economic Development Committee:****7 February 2024**

Subject: Servitude of land adjacent to Duntiglennan Fields, Duntocher**1. Purpose**

- 1.1** The purpose of this report is to seek Committee approval for West Dunbartonshire Council (the Council) to enter into a Servitude Agreement of land adjacent to Duntiglennan Fields, Duntocher (the land) with BDW Trading Limited, trading as Barratt West Scotland (Barratt).

2. Recommendations

- 2.1** It is recommended that the Committee:

- (i) Approves a Servitude Agreement of the land to BDW Trading Limited, trading as Barratt West Scotland.
- (ii) Authorises the Chief Officer Resources to conclude negotiations.
- (iii) Authorises the Chief Officer Regulatory and Regeneration to conclude the transaction on such conditions as considered appropriate.

3. Background

- 3.1** Barratt are requesting a Servitude Agreement from the Council, for the purpose of installing a new underground drainage pipe, to service their adjacent site being developed at Duntiglennan Fields, Duntocher.
- 3.2** Detailed Planning Permission was granted to Barratt for their adjacent development site on 31 January 2023 (PPA-160-2039) for the construction of 99 new residential housing units.
- 3.3** A Servitude is a subordinate real right over a property (the burdened property) for the benefit of another property (the benefited property) which may be exercised by the owner of the benefited property, in this instance, the Council.
- 3.4** These include, for example, rights of access, rights to lay pipe(s), as in this requested instance, under (or over) the burdened property and rights to overhang the burdened property.
- 3.5** Servitudes run with the land and can be enforced by successors in title to the benefited property.

- 3.6** Following completion of the Servitude Agreement, the construction of the new underground drainage pipe will be undertaken by Barratt, at their sole cost and expense.

Main Issues

- 4.1** The Council has been approached by Barratt to enter into a Servitude Agreement to allow them to install a new underground drainage pipe at this location, at their cost.
- 4.2** The land being sought from the Council for the Servitude is shown on appendix 1 and is located at Craigielea Road, Duntocher. The land is not required by the Council for any operational and/or other purposes.
- 4.3** The standard process Scottish Water recommend is that a developer engages to try and reach agreement with the landowner directly. Barratt have complied with this by engaging with the Council. However where a landowner is unwilling to reach an agreement and Scottish Water deem this to be unreasonable Scottish Water can grant statutory powers for laying sewer and water mains through third party land. Barratt have confirmed that, should this request be refused, they will pursue the matter under statutory powers.
- 4.4** For sewers, as in this instance, this comes in the form of Section 3A powers which can be served on landowners with the landowner having 56 days to accept or object to the proposal. If at the point the landowner objects then the matter will be referred to a Sheriff Court for a legal decision.

5. People Implications

- 5.1** There are no significant people implications other than the resources required by legal services and asset management to conclude the Agreement.

6. Financial and Procurement Implications

- 6.1** There are no financial implications arising from this report.
- 6.2** There are no procurement implications arising from this report.

7. Risk Analysis

- 7.1** The disposal is subject to legal due diligence.
- 7.2** As with any transaction of this nature there is a risk of the Agreement not proceeding due to issues which arise during the due diligence process and the land may require to be retained by the Council.

8. Environmental Sustainability

- 8.1** Barratt would be required to undertake any installation via the most sustainable construction technique and methods.

9. Equalities Impact Assessment (EIA)

- 9.1** An Equality Impact Assessment is not applicable for the purpose of this report.

10. Consultation

- 10.1** Consultations have been undertaken with Finance and Regulatory Services, Planning and Road Services.

11. Strategic Assessment

- 11.1** By agreeing to this proposal this will be contributing to the Council's strategic priority for a strong local economy and improved job opportunities.

Laurence Slavin
Chief Officer: Resources
Date: 23 January 2024

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Appendices:	Appendix 1 - Location Plan
Background Papers:	None
Wards Affected:	Ward 4