

WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 12th October 2022**

DC22/049/MSC: Approval of matters specified in conditions 1, 3, 5 and 7 of PPIP approval DC19/203 for the erection of 99 dwellinghouses, formation of access, landscaping, open space, SUDS and associated infrastructure at Farm Road, Duntocher, Clydebank by BDW Trading Ltd

1. REASON FOR REPORT

- 1.1** This application considers matters specified by condition in connection with a planning permission in principle for a development that in the hierarchy of development proposals, is a major planning application as defined by The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

2. RECOMMENDATIONS

- 2.1** **Grant planning permission** subject to the further conditions identified in Section 9 below.

3. DEVELOPMENT DETAILS

- 3.1** Situated immediately to the north of the existing settlement at Duntocher and extending to an area of approximately 8.8 hectares, the application site comprises an area of sloping agricultural grassland. The site comprises two roughly similar size fields connected by a narrow corridor. This creates two distinct parts of the site; a northern part and a south-western part. The northern part of the site is bound by Farm Road to the east, wrapping around an existing house, and to the south by the rear gardens of houses on Mirren Drive. The former Duntiglennan Farm steading which has been converted to dwellinghouses lies to the north. This part of the site connects at its south-western corner to the south-western field. The south-western field is bound by the rear gardens of houses on Mirren Drive to the east and the rear of the houses and flats on Craigielea Road to the south. The land to the north and east of both parts of the site is agricultural.
- 3.2** There are significant level changes across both parts of the site, with the land generally rising to the north. The land was previously used for agricultural grazing but it is currently unused, and it consists mainly of overgrown grassland with a variety of trees. A dry stone wall is found within the northern part of the site running west to east. The south western field contains mature trees around its perimeter, and these are covered by a long established Tree Preservation Order (TPO) ref: DDCTPO12.

- 3.3** In September 2020, planning permission in principle was granted on appeal for a residential development subject to seven planning conditions with an indicative capacity of up to 99 dwellinghouses. In October 2020, the Council made an appeal to the Court of Session against this appeal decision. A hearing was held in July 2021 and an Opinion of the Court of Session was issued in October 2021, which dismissed the Council's appeal.
- 3.4** The Council sought permission from the Court of Session to appeal its decision at the Supreme Court. This was refused so the Council applied for permission to appeal directly to the Supreme Court. In a decision dated 8 August 2022, the Supreme Court ordered that: (1) the appeal be refused as it did not raise an arguable point of law of general public importance; and (2) the Appellant (West Dunbartonshire Council) pay the Respondents' costs.
- 3.5** As reported to Members at the September meeting of the Planning Committee, this decision means that the Council has exhausted all legal routes to appeal the granting of planning permission in principle for residential development on the site. Accordingly planning permission in principle (ref DC19/203) for this site remains granted.
- 3.6** The question of the principle of residential development on this site is not revisited in the assessment of this application. This application considers the details submitted in respect of this application for the approval of the matters specified in conditions 1, 3, 5 and 7 of the planning permission in principle granted on appeal. Condition 1 addresses a variety of details including the site layout, siting and design of the proposed houses, access arrangements, car parking, levels, landscaping, garden space and provisions for waste. Condition 3 addresses the requirement for an updated habitat survey and condition 5 addresses flooding and drainage details. Finally, condition 7 relates to the provision of bus stops on Craigielea Road and associated footpath connections. There is nothing that requires the applicant to seek to address all conditions at the same time and accordingly the details in respect of conditions 2, 4 and 6 of the planning permission in principle which address tree protection, a programme of archaeological works and a site-specific Construction Environmental Management Plan (CEMP) respectively are not under consideration at this time and will be addressed at a later stage.
- 3.7** The proposed development will provide 95 detached dwellinghouses and four semi-detached dwellinghouses with seven different house types, all of which will be two storeys in height. The detached houses will have four bedrooms and the semi-detached houses three bedrooms. External materials will comprise a mix of red and grey concrete roof tiles, white drycast render with buff stone features and basecourses and uPVC windows. Each property will feature in curtilage driveway parking constructed in blockwork and a private front and rear garden area. Rear gardens will be defined by 1800mm high timber slatted fencing with a feature wall and fence combination to prominent corner plots. An entrance feature is also proposed at the junction with Farm Road. Roads and associated footways within the development will be designed for adoption by the Council and it is indicated that these will be finished in either asphalt or blockwork in two contrasting colours.
- 3.8** The developable area of the site is driven initially by the topography and landscape features of the site. The layout includes a significant amount of open space to which access will be available via new footpath connections. An equipped play area will also be provided within the development. The overall

layout largely follows the indicative masterplan which was submitted as part of the application for planning permission in principle. A single vehicular and principle pedestrian access from Farm Road will be formed with a clear street hierarchy throughout the development with primary and secondary circulation loops and feature or node points to assist in way finding and punctuate the road layout. The development is designed on a frontage basis throughout in that the proposed houses are designed to face outwards towards the new roads with the development and also be outward looking to Farm Road. The open space within the lower western part of the site will connect with the existing open space situated on Craigielea Road and feature an associated footpath connection. The network of footpaths within the areas of open space will be of a more informal arrangement finished in whin dust. Around half of the overall site area will comprise open space and will include Sustainable Drainage System (SuDS) infrastructure to address surface water from the site. New bus stops are proposed to Craigielea Road, adjacent to the existing area of open space.

3.9 In support of the proposal the applicant has submitted a Design and Access Statement, Ecology Appraisal and Drainage Assessment.

4. CONSULTATIONS

4.1 Scottish Water have no objections to the proposed arrangement on site although it is noted that this does not confirm that the development can be serviced. Sufficient fresh water capacity is available although a flow and pressure test will be required as part of the developers application for a connection. There is also network capacity for a foul water connection.

4.2 Scottish Environment Protection Agency (SEPA), West Dunbartonshire Council Roads Service, Historic Environment Scotland and West of Scotland Archaeological Service (WOSAS) have no objections to the proposed development.

4.3 West Dunbartonshire Council Environmental Health Service have no objection subject to conditions relating to hours of working, delivery vehicle timing restrictions, piling, dust control, ground contamination and SuDS.

4.4 West Dunbartonshire Council Biodiversity Officer has reviewed the submission and highlighted a variety of points relating to the submitted Ecological Appraisal, areas of the site with biodiversity value and orchids within the site.

4.5 Strathclyde Partnership for Transport (SPT) have not provided any response at the time of writing.

5. REPRESENTATIONS

5.1 A total of 149 representations have been received in connection with the application, all of which are in objection. The detail of each submitted representation is available in the electronic planning file for the application and available for public viewing. The points and concerns raised can, however, be summarised as follows:

Principle of development and previous planning decisions

- Planning permission in principle should not have been granted for this site on appeal.
- The Council has consistently set out its position in opposing the development of this site.
- The application should not be considered in light of the court challenge.

Policy

- The proposal fails to follow the principles of Scottish Planning Policy.
- The site is not allocated as a residential development opportunity in the proposed Local Development Plan 2.
- The development is in the Green Belt which the development plan seeks to protect.
- There should be a preference for brownfield developments over greenfield developments.
- The wider position in respect of housing land is one to be considered as part of the Development Plan.

Landscape, design and visual impact

- The proposal will be to the detriment of the appearance of the countryside and damage the local character of the area.
- An adverse visual impact would occur and the proposed development would dominate the skyline.
- Green Belt boundary is long established and already clearly defined.
- The development would have an adverse visual impact on the Kilpatrick Hills and wider landscape.
- The urban area would be extended to the detriment of the village character of Duntocher.

Roads, transport and connectivity

- The local road network inclusive of Farm Road is already severely congested.
- The junction capacity to the main A82 is of concern and may be impacted upon adversely.
- An increase in traffic and associated congestion would occur from the development.
- Road and pedestrian safety would be adversely impacted upon, including children and the elderly.
- Existing uses such as the local school, football pitch and church already generate significant traffic on the local road network with on street parking and congestion.
- The local roads form a bus route and buses already have issues navigating parked vehicles.
- Accidents frequently occur including those involving buses.
- Existing vehicles speed on Farm Road.
- The development may result in larger buses using the local roads.
- Additional congestion occurs on local roads from home deliveries.
- No access is proposed to Craigielea Road.

- Traffic surveys carried out were undertaken during the pandemic and may not be representative.
- Parking of construction workers may result in additional congestion.
- Emergency services may be impeded due to road congestion.
- Farm Road has a very steep gradient.
- Winter conditions on Farm Road are problematic.
- Farm Road is in disrepair and requires resurfacing.
- Construction traffic would cause additional issues on the local road network.
- The development is an accident waiting to happen.

Service and infrastructure impact

- There is insufficient service infrastructure to accommodate the development.
- The local schools are at capacity and cannot accommodate additional children from the development.
- The development could impact on water and sewerage.
- Existing medical surgeries would not have capacity for the development.
- There are a poor range of facilities within the local area, including local shops.
- There is a lack of leisure and recreation opportunities within Duntocher.

Environment, ecology and recreation

- The proposal will adversely impact on a wide range of wildlife species.
- The ecology report submitted and associated survey work and assessment is inadequate.
- There will be an adverse impact on flora and fauna which is not properly assessed.
- The development may impact on European Protected Species.
- A loss of trees will result and the development will adversely impact on trees covered by a Tree Preservation Order.
- The site is used for walking and other outdoor recreational pursuits.
- A loss of open space will result.
- The site should be left undeveloped for public use.
- Air pollution would occur as a result of the development.

Residential amenity

- A loss of view from neighbouring property will occur.
- There will be an increase in noise and disturbance.
- Privacy may be compromised.
- Disruption will occur from the construction process.
- Neighbouring properties may suffer from overshadowing and loss of daylight.
- Light pollution would occur.

Flooding and drainage

- Flooding often occurs in this area.
- There is existing surface water run-off from the site.

- The potential impacts from a dam breach further up the hill have not been assessed.
- Granting planning permission may set a precedent and leave the door open for similar future developments.

Procedure

- Not all neighbours were notified.
- The applicant does not own the land.
- The site encroaches onto neighbouring land under the separate ownership of two adjacent properties.
- The planning permission in principle was granted on appeal, bypassing local democracy.
- Previous planning applications for the site were refused.

Other issues

- The development will increase carbon emissions.
- The development is incompatible with the 20 minute neighbourhood approach.
- Property values will be adversely impacted upon.
- The proposed houses will be adversely affected by winter weather conditions.
- The applicant should find another site for development.
- Perspective residents should consider existing houses for sale and not new houses on the application site.
- The development should be for social housing, not private housing.
- The proposal will contravene the Human Rights Act.
- Land should not be sold for profit.
- A corporate company should not be allowed to purchase the land.
- The development is not wanted.
- The wishes of local residents have been ignored.

5.2 The points and concerns raised will be considered in the assessment below.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

Clydeplan Strategic Development Plan 2017

6.1 The 2017 Clydeplan Strategic Development Plan (SDP) sets out a strategic vision to be implemented through a spatial development strategy and sets targets for the provision of new housing within the component parts of the Plan area. This provides that most development is to be focused on existing settlements, with much of the intervening land being designated as Green Belt. Clydeplan is clear in supporting housing growth that creates high quality places which delivers not only the right type of homes but in the right locations. The principle of the proposal was fully assessed against Clydeplan by the Reporter in the appeal where it was found the development to be largely consistent with Clydeplan. It is not required or appropriate to revisit this in considering this application for matters specified by condition.

West Dunbartonshire Local Plan 2010

6.2 It is recognised that the site is located within the Green Belt as defined by the adopted Local Plan with Policy GB1 seeking to preserve the landscape

character of the Green Belt by specifying a general presumption against development other than that falling into certain specified categories into which a large residential development does not fall. The preference for residential development on brownfield sites within the urban area rather than on greenfield sites is also set out within Policy RD1. However, notwithstanding these policy provisions, planning permission in principle for a residential development on this site has been granted on appeal and the location of the development on a greenfield site within the Green Belt is not requiring assessment.

- 6.3** Policy H4 sets out standards expected of residential development, requiring high quality design in the range of house types and sizes and in terms of form, layout and materials. Policy GD1 seeks to ensure that all new development is of a high quality of design and respects the character and amenity of the area. Policy R2 specifies the open space provision required for all developments. Assessment of open space requirements has been undertaken against the more updated “Our Green Network” Planning Guidance (2015) in Section 7 below.
- 6.4** Policies T1 and T4 requires sites to integrated with sustainable travel. Policy E4 requires to protect trees covered by Tree Preservation Orders and Policy E5 relates to trees and requires new development proposals to consider impacts on trees and incorporate suitable tree planting. Policy BE5 seeks to ensure that there is no adverse impacts on Scheduled Monuments or other archaeological sites with Policy BE6A specifically addresses development affecting the Antonine Wall.
- 6.5** Policies F1 and F2 aims to ensure that new development is not at risk from, and does not increase the risk of flooding, and has suitable SUDS drainage infrastructure. Policy DC7 supports micro-renewable technologies in new development.
- 6.6** The application proposal being assessed complies with the relevant policies of the adopted Local Plan and is assessed fully in Section 7 below.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

National Policy

- 7.1** Scottish Planning Policy (SPP) introduces a presumption in favour of sustainable development and indicates that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place but not allow a development at any cost. Design and Placemaking are key principles with SPP setting out that planning requires to create better places through a design-led approach. Designing Streets seeks to promote a clear hierarchy of streets with the creation of a sense of place. The detailed layout of the development is considered consistent with national policy.

West Dunbartonshire Local Plan (LDP2) Proposed Plan

- 7.2** The modified LDP2 was approved by the Council in August 2020 and the Council then advised the Scottish Ministers of its intention to adopt the Plan. The Scottish Government issued a direction to the Council on 18th December 2020 requiring modifications to the housing parts of LDP2. The principle of the residential development has been established by the appeal decision. In

assessing this application for Matters Specified by Condition in respect of the design and detail of the proposal, none of the policies considered are affected by the Direction. LDP2 is therefore the Council's most up to date policy position and has significant weight in the assessment and determination of planning applications at this time.

7.3 In LDP2, it remains that the site is located in the Green Belt with Policy GB1 directing new development to the urban area in order to maintain the attractiveness and character of the Green Belt. The principle of development in this Green Belt location is established by the planning permission in principle in place. Policy CP1 seeks to ensure that housing is of a high quality, adaptable and is designed to be suitable for a mix of occupants. It indicates that all new development will be expected to contribute towards creating successful places by having regard to the six qualities of a successful place (distinctive, adaptable, resource efficient, easy to get to/move around, safe and pleasant, and welcoming).

7.4 Policy H4 addresses residential amenity within existing residential areas. Policy GI2 and associated table 6 sets out open space standards for residential developments with this updated position setting a sets a higher open space standard to that of the adopted Local Plan. Policy GI4 sets out the position in circumstances where developer contributions are required in respect of open space provision. Policy CP2 requires the integration and consideration of green infrastructure from the outset of the design process through to its maintenance and stewardship of the resource. ENV1 advises on nature conservation and seeks to safeguard designated and non-designated habitats. Policies ENV4, ENV5 and ENV6 address the trees, the water environment and flooding with a similar approach to the Adopted Local Plan. Policy AW1 seeks to ensure development does not have an adverse impact on the Antonine Wall.

7.5 Policy CON1 requires that significant travel generating uses are designed to encourage sustainable transport and Policy CON4 sets out a need for all developments to install sufficient broadband provisions. Policy ENV8 requires developments to address air quality, lighting and noise as part of the planning process, whilst policy ENV9 requires all potentially contaminated sites to be remediated where necessary to ensure that the site is suitable for the intended use. Policy RE5 sets out the requirements in respect of low and zero carbon buildings.

7.6 It is considered that the application proposal being assessed comply with the relevant policies above as set out in the following assessment.

Principle of Development

7.7 As set out in paragraph 3.3 - 3.6 above, planning permission in principle for residential development on this site has been granted and the principle of development is not being assessed as part of this proposal.

Design and layout of the development

7.8 Successful residential layouts require well designed buildings in a setting of gardens and open space and within a framework established by landscape features and road layout, all recognising the impact on neighbours. In the appeal decision, the omission of any development on the northernmost part of the site and on the southern part of the south-western field was noted by the Reporter as an important element of the indicative layout. The detailed design now being considered reflects this arrangement which sought to minimise the

visual impact on the development within the landscape The Reporter was also of the view that the site could be developed in a manner that would not detract from the overall character of the settlement or adjoining Kilpatrick Hills.

- 7.9** The surrounding locality is based on a low density approach and is characterised by dwellinghouses situated within individual curtilages in a setting which includes open space. Flatted blocks lie to the south of the site but these are again situated within a relatively low density arrangement interspersed by open space. The proposed development follows the overall theme and pattern of development in the locality and it is considered that the density of building is compatible with the character and amenity of the wider adjacent residential area. External materials will comprise the use of red and grey concrete roof tiles together with white drycast render and buff stone basecourses and detailing. Examining the design and proposed materials, the proposed new dwellings will have a modern appearance and the use of a variety of house types throughout the layout will assist in creating interest and will be in keeping with the surrounding residential area. The use of a feature wall and fence combination within prominent positions throughout the development also assists in creating a high quality development. The built ratio of each plot accords with the requirements of the Council's Residential Development Design Guidance. Whilst the sloping nature of the site is noted, the site is designed in such a way to minimise sloping areas within gardens and this ensures not only a suitable level of garden ground and associated private amenity space is provided for new residents, but that these garden areas are usable.
- 7.10** The proposed dwellings provide strong street frontages throughout the development and the development successfully incorporates variations to the orientation of buildings to create further interest and variety. Care has also been taken to ensure that the positioning of the buildings adjacent to the Farm Road are outward looking to provide an attractive and welcoming appearance to the development.
- 7.11** A single road access is proposed from Farm Road and this again reflects the indicative layout assessed by the Reporter who was of the view that an elongated road arrangement within the site was inevitable given the characteristics of the site. Whilst the possibility of a secondary access to Craigielea Road was highlighted by the Reporter, the fact that this would cross an existing area of open space outwith the application site and be positioned on a steep gradient was noted. It is not considered such an approach would be appropriate and in any case it is outwith the application site. The applicant advises in the supporting documentation that the road layout within the development has been designed to take account of the contours and levels of the site in order to minimise any requirement for excessive ground engineering works. All roads are designed to have a frontage and a clear hierarchy of streets are provided within both primary and secondary routes incorporating specific node points. The overall approach to road design is considered appropriate and assists in creating a successful place that caters for a variety of road users. The Council's Roads Service offers no objections to the proposed layout although it is noted that final surfacing, which the applicant indicates will be either asphalt or blockwork, will require to be considered further at the Roads Construction Consent stage. Accordingly, it is appropriate to address the final surfacing materials by condition.

7.12 Both the adopted Local Plan and the proposed LDP2 advise on low and zero carbon technologies with the latter providing the up-to-date position through Policy RE5 and associated Table 9. The applicant highlights that the proposed houses will be designed with a 'fabric first' approach to carbon emission reduction including high levels of insulation, high performance windows and doors, enhanced thermal performance and maximising passive solar gain. However, Policy RE5 of LDP2 is clear on the expectation for new development to incorporate low or zero carbon generating technology. This requirement can be addressed by a condition in respect of the final design of the proposed houses on site. Such an approach will ensure compliance with Policy RE5 of proposed LDP2 and policy DC7 of the adopted Plan. Policy CON4 of proposed LDP2 requires the provision of infrastructure in relation to superfast broadband. Whilst no such requirement is placed on the planning permission in principle granted, it is appropriate to address this as part of the detailed layout of the site and a condition is attached accordingly.

7.13 Overall, it is considered that the proposed development is appropriate in terms of the layout, density and design and that these matters are satisfactorily addressed.

Residential amenity

7.14 Residential amenity can be affected in a number of ways. Any development project will produce noise and an element of disruption during the construction phase and this cannot be a determining factor in considering planning applications. Environmental Health have highlighted a number of matters in their consultation response including hours of work, time restrictions of deliveries, piling method statement, and dust control. These matters will be addressed via the requirements of condition 6 (Construction Environmental Management Plan) of the planning permission in principle granted which is not being considered as part of this application, as will air pollution resulting from construction. In the appeal decision, the Reporter recognised that some residents living next to the site would lose their currently open outlook but that the loss of view was not a material planning consideration.

7.15 Existing neighbouring residents have an established level of amenity and the Reporter noted the requirement to pay careful attention to the layout of the development and the design of the proposed houses in order to ensure that there would be no unacceptable impact on the privacy and amenity of existing houses. This is recognised in the final design and layout of the development. To the north of existing houses on Mirren Drive, the design includes a buffer which increases separation between the existing gardens and the rear boundary of the gardens of the new houses. This takes account of the fact that the land rises up and that there are limited features along this boundary to soften the impact on the new development when viewed from existing neighbouring houses. This also ensures an increased level of separation well beyond the minimum 18 metres ordinarily expected. A similar approach is taken where the site adjoins the converted Duntiglennan Farm steading with a buffer and window to window arrangement in excess of 18 metres. Where the development adjoins the western boundary of the rear gardens of Mirren Drive, there is not a buffer between the rear garden boundaries of the existing houses and the new plots. However, here the levels of the site are such that the new plots do not rise up behind neighbouring properties and neighbouring gardens feature a greater amount of screening. It remains that the window to window arrangement is, however, in excess of 18 metres and the applicant has advised that additional planting can be provided to the rear of the proposed plots at this

location to soften any impact further. There is also nothing to suggest the design of the development would result in the occupation of the new dwellings causing any noise or activity beyond that typically found within a residential area. Night time lighting will also be typical of that within a residential area and does not present any residential amenity concerns. Within the proposed development, a minimum 18 metres window to window distance is achieved in all instances and this ensures suitable privacy and amenity for new residents.

- 7.16** Concerns regarding overshadowing and loss of sunlight are also highlighted in the objections received. Given the separation of the new houses to existing windows and gardens, it is not considered that any unacceptable impact would occur.

Trees, landscaping and open space

- 7.17** As noted above, in the appeal decision and with reference to the indicative layout, the Reporter considered the omission of any development on the northernmost part of the site and on the southern part of the western field an important element of the development. These areas form the principle parts of the landscaping and open space provision within the site with approximately half of the site being retained for landscaping and open space. The northern part of the site will comprise a large area of open space with a footpath network which will provide an attractive and extensive area for outdoor recreation as well as providing a setting for the development which reinforces the boundary between the built area and the open countryside beyond. The southern part of the western field provides for a further area of open space incorporating one of the two SuDS basins in the site and creates an attractive outlook for the houses proposed to this part of the development site. This area will connect to the existing area of open space adjacent and include a new footpath network which connects to the existing desire line through the adjacent open space. An equipped play area is proposed as part of the development and this is positioned in an appropriate location that is accessible, overlooked and openly visible. The final detail of the proposed equipment can be addressed by condition.
- 7.18** The overall landscape strategy proposed seeks to largely retain existing field trees within the site together with other landscape features and through the landscape strategy create a biodiverse and attractive space which provides a setting for the development. The landscaping strategy includes proposed trees within the developed area to create interest within the streetscape together with proposed hedgerow planting and additional shrub planting and ground cover. Existing tree planting will be reinforced and the overall landscape strategy also includes meadow grass, wildflower meadows and bulb planting. The approach to open space provision and planting is considered appropriate and implementation and maintenance can be addressed by condition.
- 7.19** The amount of open space and landscaping within the site is extensive with an area in excess of 50,000 square metres which significantly exceeds policy requirements. This promotes a green infrastructure approach as advocated by Policy CP2 and G12 of proposed LDP2 together with the Our Green Network planning guidance.
- 7.20** The western field is covered by Tree Preservation Order (TPO) reference DDCTPO12. A Tree Survey and Arboricultural Report was submitted in support of the application for planning permission in principle. As noted in the appeal decision, the tree survey recorded 60 individual trees and three groups of trees,

mostly around the edges of the western field, but also across the northern part of the site on the ridgeline. Most of these are mature trees of moderate to good quality, with beech and sycamore being the predominant species. In granting planning permission in principle, the Reporter was satisfied that the development could be undertaken without adverse impact on existing tree cover, including those protected by the TPO. Only five trees are identified as requiring removal. Condition 2 of the planning permission in principle addresses the requirements for tree protection and advises that none of these trees shall be felled, lopped or topped except as otherwise approved by the Planning Authority. The proposed layout seeks to ensure that trees across the site, including those specifically protected are retained and the tree protection measures will ensure that they are suitably protected. The application has not submitted details in respect of condition 2 at this time and accordingly, tree protection measures will be addressed at a later date, but prior to the commencement of any works on site. There is no conflict with the requirements of Policies E4 and E5 of the adopted Plan and Policy EN4 of proposed LDP2.

Ecology

7.21 The application for planning permission in principle was supported by a Habitat Survey. The Reporter considered that whilst this noted habitats that were suitable for a number of protected species, including otters, bats, pine martens and water voles, no field signs of any such species were recorded. Of the various habitats within the site, the semi-natural broadleaved woodland and scattered trees were the most ecologically significant. The granting of planning permission in principle on appeal confirms unequivocally that it is considered that this site can accommodate a residential development without adversely impacting upon protected species, biodiversity and ecology. It was recognised by the Reporter that various recommendations inclusive of further survey works were recommended by the Habitat Survey and accordingly condition 3 of the planning permission in principle requires these recommendations to be followed and further details submitted. However, it is equally recognised that should development not commence within a certain time period following the Habitat Survey, the baseline would require to be re-established. The condition requires that if no works have commenced on site by 1 August 2021, a new habitat survey shall be undertaken and submitted. This new survey will either reconfirm the position on site or outline fresh recommendations. Accordingly, a new Habitat Survey has been submitted in the form of a fresh Preliminary Ecological Appraisal. This re-establishes the baseline and sets out up-to-date recommendations.

7.22 The Council's Biodiversity officer has reviewed the submission and highlighted a variety of points. Many of these relate to the principle of the development of the site and the suitability of this site in the Green Belt for such a development. However, this is already established and not for consideration. A variety of site features and habitats are highlighted as of value. This includes part of the south-western field most notably the mature woodland strip to its west and north which is being retained. The upper parts of the northern field are also highlighted. Much of these areas are retained as part of the development. The survey for the new Appraisal was undertaken during the winter months and the Council's Biodiversity officer identifies that this time is sub-optimal for such survey work. Whilst noting this, it is also recognised that this Appraisal is not to inform whether the site is suitable for development; that is established. It is to provide an update to the baseline and set out up-to-date recommendations which it does. In terms of protected species, the Appraisal identifies that there are 23 trees with bat roost potential and the need for a follow up dusk and dawn

survey prior to any works commencing within 30 metres of the trees. Whilst addressing protected species by suspensive conditions is not an appropriate approach when it comes to establishing the suitability of a site for development, this is not what is being considered here. What is being considered is the requirement to ensure that the development, the principle of which is already established, is undertaken in a suitable way. In terms of bats, this would be during the activity season immediately prior to the commencement of works on site. Such an approach ensures that the development is undertaken in a suitable manner in respect of protected species. The Council's Biodiversity Officer has also highlighted that the Greater Butterfly Orchid is found within this site and as Scottish Biodiversity List species they should be offered protection. A follow on survey for Orchids can be addressed by condition as can the requirement for translocation where they are found within the area to be developed as established in the planning permission in principle. The approach detailed above will ensure no conflict with Policy E1 of the adopted Local Plan and Policy ENV1 of proposed LDP2.

Flooding and drainage

7.23 Informed by the applicant's flood risk assessment, no concerns in respect of flooding were identified by the Reporter in determining the appeal. Condition 5 of the planning permission in principle requires that any modification or alterations to the indicative masterplan layout of the proposed residential development shall be subject to a further Flood Risk Assessment. The development proposals follow the indicative masterplan and accordingly, there is no requirement for a further flood risk assessment. A drainage assessment has been submitted by the applicant which models in detail the drainage for the development site. The surface water is addressed by SuDS with two separate SuDS ponds within the site which will have been designed to provide sufficient storage columns to appropriately attenuate surface water run-off. The drainage assessment identifies that the development will improve overall water management in the local area. SEPA and the Council's Roads Service offer no objections on flooding and drainage grounds.

7.24 The Council's Environmental Health Service advise that details should be submitted in respect of the future maintenance of the SuDS. The applicant advises that it is expected that road gullies will be adopted as part of the public road network and the surface water drainage system inclusive of SuDS ponds will be adopted by Scottish Water. A condition can, however, address maintenance should the above not occur. The requirement to ensure that surface water run-off is contained within the site inclusive to measures to achieve this can also be addressed by condition.

7.25 Concerns are raised in the representations received in respect of flooding implications resulting from a dam breach at the reservoirs in the hills to the north of the site. Neither SEPA nor the Council's Roads Service in their capacity as local flooding authority raise any such concerns. The issue was also not of concern to the Reporter in considering the appeal. Accordingly, there is nothing to suggest that this requires to be considered in the context of this application for matters specified by condition. Overall, the proposal presents no conflict with policies F1 and F2 of the adopted Plan and policy ENV6 of proposed LDP2

Roads, access, parking and permeability

7.26 In granting planning permission in principle, the Reporter fully considered the impact of the development on the local road network and weighed this against all material planning considerations. It is not for this assessment to revisit this.

This assessment focuses on the detail of the proposed development layout. In this respect, the assessment is principally guided by the advice from the Council's Roads Service who are satisfied with the overall arrangement. In the consultation response it is highlighted that the existing footway on both side of Farm Road should be extended to the northern extremity of the proposed development. No such requirement is specified in the planning permission in principle granted and being outwith the application site and forming part of a private road not under the prospective ownership of the applicant, it is not within the applicant's gift to include this as part of the development. Given the new development connects to existing footways forming part of the adopted public road, the approach is considered appropriate. A vehicle tracking drawing demonstrates the suitability of the site layout for refuse vehicles and parking provision is provided in accordance with the required standards. The applicant has also confirmed that the proposed roads are provided to a suitable gradient in accordance with the required of the Council's Roads Service.

7.27 Turning to the proposed bus stops on Craigielea Road and associated footpath connection, the Roads Service offers no objections to the bus stops being positioned at this location. SPT have offered no comments at the time of writing and the proposed bus stops are considered appropriate. The preference of the Roads Service for the footpath connection to be constructed to adoptable standards is noted. It is unclear whether the Reporter in imposing the condition requiring the bus stops to be provided, intended for a footpath connection to be provided across the adjacent area of open space which is both outwith the application site and steeply sloping. The applicant seeks, however, to recognise the desire line across this area of open space by providing a footpath connection, as part of the path network proposed as part of the open space within the development. However, to provide this to adoptable standard would result in a considerable level of ground engineering and a pathway that would likely zig zag across the adjacent open space, to the detriment of this area. The principal pedestrian route to the bus stops is via the existing public footways on Farm Road and Craigielea Road. The proposed footpath will provide a secondary route following a likely desire line and the approach overall is supported. The bus stops will benefit not only new residents but also existing residents by increasing access to public transport.

7.28 A range of traffic and road safety concerns have been raised in the public representations. However, these concerns almost exclusively relate to the implications of the development on the wider local road network. An assessment of this cannot be revisited as part of this application for matters specified by condition.

Cultural Heritage

7.29 The application site lies near to the line of the Antonine Wall but is not within the buffer zone and no concerns were raised by the Reporter in this regard. Condition 4 requires the developer to implement a programme of archaeological works. The applicant has not submitted details in respect of this condition at this time. The West of Scotland Archaeological Service highlighted the requirement imposed and Historic Environment Scotland offer no objections in respect of the nearby line of the Antonine Wall.

7.30 Other matters raised in consultation responses

The Council's Environmental Health Service have highlighted the requirement for a condition in respect of the requirements should unexpected contamination become evident during the development. Whilst no such condition was applied

to the planning permission in principle, it is considered that it is appropriate to attach such a condition in the context of the final approved layout. Scottish Water offer no objections in respect of the detail of the proposed development.

Other Matters raised in representations

- 7.31** A wide range of other issues have been raised in the representations. Many of these relate to matters in respect of the principle of the development of the site for residential development which is already established. These include the green belt location, the impact on and matters relating to existing services and infrastructure, use of the site area for outdoor recreation, sustainability and compatibility with the 20 minute neighbourhood approach, the tenure of the proposed houses and the planning history of the site. Such matters may not be re-assessed in this application.
- 7.32** Considering the other outstanding points in the representations not already addressed above, procedurally, the submission meets the requirement of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. All neighbours within 20 metres of the application site were notified and, additionally, a press advertisement was placed in accordance with the requirement of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. An applicant does not require to own the land to submit a planning application and the correct procedure has been followed by the applicant in notifying the owners of the application site. If a development site was to encroach onto land in separate ownership, this would be a civil matter between the parties involved. There is nothing to suggest that the location and height of the site would result in the proposed houses being adversely affected by winter weather. Any potential reduction in property value is not a material planning consideration
- 7.33** Noting the concern that the granting of planning permission for this site creates a precedent for future proposals, all planning applications are considered on their own merit and this would be the case for similar sites. There is also nothing to prevent the submission of planning applications for Green Belt locations.
- 7.34** Finally, the Human Rights Act is not prejudiced by consideration of the planning merits of a proposal. Planning legislation ensures that all those with a right to comment are allowed to do so during the entire procedure, from pre-application discussion and through neighbour notification and publicising of the application.

8. CONCLUSION

- 8.1** With the granting of planning permission in principle on appeal, residential development on this site is considered agreed. This application considers the matters specified in conditions 1, 3, 5 and 7 of the planning permission in principle. Overall, it is considered that the details of the development proposed incorporate the six qualities of successful placemaking in creating a distinctive, legible, welcoming and permeable development with a defined hierarchy of streets in accordance with the aims of Policy CP1 of proposed LDP2.
- 8.2** In respect of condition 1, the overall site layout is considered acceptable as is the design and appearance of the proposed houses. The proposed drainage is appropriate and incorporates SuDS as required. Access arrangements are provided including swept path analysis and car parking is of an appropriate standard. Site levels are provided as are landscaping details which are

appropriate for the site. Private garden space accords with the Council's guidance and waste can be stored within individual curtilages as is commonplace in such developments.

8.3 An updated habitat survey is provided and the Council's Biodiversity officer is content with the conclusions and recommendations. Matters relating to flood risk are addressed in terms of Condition 5 as is the proposed provision of bus stops on Craigielea Road.

9. CONDITIONS

1. That prior to the commencement of works on site, a detailed phasing plan for the progression of the development on site shall be submitted to and approved in writing by the Planning Authority. Development shall then proceed as approved.
2. That prior to the commencement of works on site, exact details of all external materials (inclusive of all walls, paving, hard surfacing and road surfacing) shall be submitted to and approved in writing by the Planning Authority. Development thereafter shall proceed utilising the approved materials unless an alternative is agreed in writing by the Planning Authority.
3. The approved hard and soft landscaping and all associated approved planting details shall be implemented within a timescale to be agreed with the Planning Authority prior to the commencement of works on site.
4. Notwithstanding the approved drawings, details of additional structural planting to the rear of plots 22 to 27 (inclusive) shall be submitted to and approved in writing by the Planning Authority prior to the commencement of works on site. Implementation shall then be agreed as part of the requirements of condition 3 above.
5. That any trees, shrubs or areas of grass which die, are removed, damaged or become diseased within five years of completion of the landscaping shall be replaced within the following year with others of a similar size and species.
6. That full details of maintenance and management for the landscaping approved shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any works on site. Management and maintenance shall commence upon completion of each part of the landscaping as it is completed and continue at all times thereafter
7. Prior to the commencement of any works on site, full details of the proposed play equipment and maintenance arrangements together with the timescale for installation shall be submitted to and approved in writing by the Planning Authority. These details shall incorporate the use of natural play equipment. The works shall be installed in accordance with the approved scheme and shall thereafter be retained for the lifetime of the development unless otherwise agreed by the Planning Authority.
8. The new bus stops on Craigielea Road together with the associated adjacent footpath connection hereby approved shall be installed and

available for use by passengers and passing bus services prior to the occupation of the first house hereby approved.

9. That prior to each house hereby permitted being occupied, all new roads and footways leading to it shall be surfaced to a sealed base course.
10. That within 4 weeks of the last of the dwellinghouses hereby permitted being completed, all roads and footways within the application site shall be completed to a final wearing course.
11. That prior to the occupation of any dwellinghouse, the off-street parking provision shall be completed and be available for use by residents of the associated dwellinghouse. The off-street parking provision inclusive of garages where they part of this parking provision shall then remain unobstructed and available for use by residents of the associated dwellinghouse at all times thereafter.
12. That the approved drainage regime inclusive of the two SuDS ponds shall be fully implemented. For the avoidance of doubt, the drainage regime shall be implemented commensurately with the construction of the dwellinghouses it serves. All recommendations in the Drainage Assessment Report dated February 2022 shall be followed.
13. Notwithstanding condition 12 above prior to the commencement of works on site, full details of the SuDS and its maintenance arrangements shall be submitted to and approved in writing by the Planning Authority. The SuDS shall be designed to ensure that contaminants present on the site are not mobilised and that pollution pathways are not created. The SuDS shall then be formed and maintained and approved to the satisfaction of the Planning Authority.
14. That all surface water shall be intercepted within the site both during construction and on completion of the development and full details of measures to ensure that surface water run-off is contained within the site shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any works on site. The measures shall be implemented and maintained as approved.
15. A bat activity survey shall be undertaken and submitted for the approval of the Planning Authority for any trees within 30 metres of any works on site and for any trees to be removed on site identified in the Preliminary Ecological Appraisal dated January 2022 as having a moderate or high bat roosting potential. This activity survey shall be undertaken within the activity season immediately prior to the commencement of works on site and all findings, recommendations and mitigation shall be implemented.
16. A survey for Orchids within the site shall be undertaken prior to the commencement of works on site and full details for their protection submitted and agreed prior to any works on site. Where Orchids are found within the areas to be developed full details of translocation to areas of open space shall be submitted to and approved in writing by the Planning Authority. Works shall then proceed as approved.
17. No site clearance works shall be undertaken during the bird nesting season March to September inclusive unless first agreed in writing by the Planning

Authority. For the avoidance of doubt, any such agreement will require a full nesting bird survey prior to the commencement of works on site, the methodology and findings of which shall be submitted to the Planning Authority for approval and implemented as approved.

18. The existing drystone wall within the northern section of open space shall be retained and restored as part of this area of open space unless otherwise agreed with the Planning Authority.
19. Details of the provision of grit bins for the development shall be submitted to and approved in writing by the Planning Authority. The agreed details shall be in place prior the occupation of the first house within the site and thereafter maintained for the lifetime of the development.
20. Prior to the commencement of works on site, full details of any street furniture shall be submitted to and approved in writing by the Planning Authority and such be implemented as approved.
21. The presence of any previously unexpected contamination that becomes evident during the development of the site shall be reported to the Planning Authority in writing within one week, and work on the site shall cease. At this stage, if requested by the Planning Authority, an appropriate investigation and risk assessment shall be undertaken and a remediation scheme shall be submitted to and approved by the Planning Authority prior to the recommencement of site works. The approved details shall be implemented as approved.
22. If there is a requirement to either re-use site won material or to import material then the assessment criteria and sampling frequency that would adequately demonstrate its suitability for use shall be submitted to and approved by the Planning Authority prior to any material being re-used or imported. In addition to this and in accordance with BS3882:2015 and BS8601:2013, material to be used in the top 300mm shall be free from metals, plastic, wood, glass, tarmac, paper and odours. On completion of the works, the developer shall submit a validation report for the approval in writing of the Planning Authority and it shall contain details of the source of the material and associated test results to demonstrate its suitability for use. Thereafter the development shall be undertaken in accordance with the approved details.
23. That prior to the commencement of any works on site, full details of the incorporation of low or zero carbon generating technologies shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details.
24. Prior to the commencement of development with the site, details of the location and design of electric charging points/units and associated infrastructure and ducting to serve the development shall be submitted to and approved in writing by the Planning Authority. The approved car charging points/units/ducting and associated infrastructure shall thereafter be installed in accordance with the approved details at a timescale agreed by the Planning Authority and maintained at all times thereafter.

25. Prior to the occupation of the first house within the site, the developer shall install the necessary infrastructure to enable the full development and all associated properties to be connected to the existing fibre optic network, where available in West Dunbartonshire, and in accordance with the relevant telecommunications provider's standards.

Pamela Clifford
Planning, Building Standards and Environmental Health Manager
Date: 12th October 2022

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Appendix: Location Plan

Background Papers:

1. Application documents and plans
2. Clydeplan Strategic Development Plan 2017
3. West Dunbartonshire Local Plan 2010
4. West Dunbartonshire LDP - Proposed Plan 2
5. 'Our Green Network' Guidance
6. Residential Development Design Guidance
7. Scottish Planning Policy 2014
8. Designing Streets
9. Consultation responses
10. Representations
11. Planning Appeal Decision PPA-160-2030
12. Opinion of Court of Session, October 2021
13. Supreme Court decision, August 2022
14. Report to Planning Committee on Supreme Court decision of 21st September 2022