

## WEST DUNBARTONSHIRE COUNCIL

### Report by the Executive Director of Housing, Environmental and Economic Development

Planning Committee: 28 August 2013

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**DC13/175: Modification of a planning obligation made under section 75 of Town and Country Planning (Scotland) Act 1997 relating to off-site road works at Thompsons Yard, Leven Street, Dumbarton by Turnberry Homes Limited.**

#### 1. REASON FOR REPORT

- 1.1 The application relates to the modification of a planning obligation, the terms of which were agreed by the Planning Committee. Under the terms of the approved Scheme of Delegation it requires to be determined by the Planning Committee.

#### 2. RECOMMENDATION

- 2.1 **Minded to Discharge** the planning obligation associated with planning permission DC03/284 **subject to** the applicant satisfactorily concluding a Section 69 agreement or other satisfactory legal means to enable a financial contribution of £60,000 to be used to carry out the road improvements detailed in Appendix A.

#### 3. DEVELOPMENT DETAILS

- 3.1 Planning permission was granted in 2006 for the erection of 250 houses and flats at a 6.5 ha site off Leven Street in Dumbarton (DC03/284). The permission was subject to a Section 75 planning obligation which required road improvement works to be carried out off-site to enable the surrounding road infrastructure to accommodate the development. The road improvements were to be carried out at key phases in the development, marked by the 100<sup>th</sup> and 200<sup>th</sup> dwelling occupied on site. The details of these improvements are listed in Appendix A and consisted of five areas of work on surrounding roads including Greenhead Road junction, Castlegreen Street, Leven Street, the A814 Glasgow Road and Strathleven Place roundabout.
- 3.2 Work commenced on the site soon after the legal agreement was signed, with the flats fronting Leven Street and the houses off Castle Road being constructed and subsequently occupied. There are currently 125 units built on-site of which 118 are occupied. However none of the road improvements have been carried out. In 2010 the Planning Committee decided that it was minded to grant a subsequent planning application for housing on the opposite side of Castle Road (DC10/065) subject to the planning obligation for DC03/284 being modified to relate to both sites. However, the planning

obligation was never modified and application DC10/065 has therefore not yet been determined.

- 3.3** An application to modify or discharge a planning obligation is a new type of application under the Planning etc (Scotland) Act 2006, which allows planning obligations (previously known as planning agreements) to be modified or discharged where necessary. This proposal seeks to modify the planning obligation and replace it with an alternative delivery mechanism. This will allow the planning obligation to be discharged. The applicant has indicated that the planning obligation was signed at a time when the market was buoyant with continued growth and ambitious development expected in Dumbarton. The requirements of the planning obligation are a constraint on development and reassessing the necessary road improvements will assist in facilitating development on the ground on the applicant's two sites off Castle Road.
- 3.4** There are five locations where road improvement works were previously agreed. It is proposed that a combination of a financial payment of £60,000 to the Council and the works being carried out as part of Road Services' programme of works will ensure the improvements happen. This is discussed further in Section 7.3 below.

#### **4. CONSULTATIONS**

- 4.1** West Dunbartonshire Council Road Services are in agreement with the modification proposed.

#### **5. REPRESENTATIONS**

- 5.1** No letters of representation have been received.

#### **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

##### West Dunbartonshire Local Plan 2010

- 6.1** The site which has been partly developed is within an Existing Residential Area. Policy H5 seeks to safeguard and where possible enhance the character and amenity of such areas. The other site to the east of Castle Road is identified as a housing opportunity in terms of Policy H1. The proposal seeks to remove a barrier to development on these sites and will improve the amenity of the area. It would therefore be in keeping with Policies H5 and H1 of the local plan
- 6.2** Policy T4 promotes a sustainable approach to development and requires developers to ensure that sites are well integrated. Significant new developments which are shown to impact on the transport network may require developer contributions including use of section 75 planning obligations to ensure that any transport infrastructure improvements required as a result of the development are implemented. The alternative mechanism to the planning obligation acknowledges the potential impact that the development of the houses would have on the road infrastructure and seeks

to carry out the road improvement works in conjunction with Road Services. This would comply with Policy T4.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

### Circular 3/2012: Planning Obligations and Good Neighbour Agreements

- 7.1** This sets out the circumstances in which planning obligations and good neighbour agreements can be used and how they can be concluded efficiently. It also provides guidance on the processes for the modification or discharge of a planning obligation. The Circular encourages the delivery of high quality development without unnecessary delays and planning obligations should not delay the benefits of appropriately planned developments that are generally in accordance with policy nor add significant costs for developers and infrastructure providers. A report on the changes to the requirements for planning obligations set out in Circular 3/2012 was presented to the Planning Committee in June 2013. The revised approach to planning obligations indicated in the Circular is set against the current economic climate where there have been growing issues in relation to the funding and delivery of infrastructure which is necessary to enable and service associated development. Developers have raised development viability as a key factor affecting the delivery of key development and infrastructure. Often planning obligations were agreed at a time when the economy was buoyant and now their existence can prevent or stall development on key development sites.

### Background to the Planning Obligation

- 7.2** The planning obligation was agreed at the time of the first housing development application was approved in 2005. Whilst the terms of the planning obligation was appropriate at that time, it has now become a barrier to achieve further development on the site presently being developed and the site opposite which has yet to be developed. The applicant has asked the Council to review the planning obligation in light of the economic climate as well as their desire to develop the existing and new sites for housing.

### Modifications to the Planning Obligation

- 7.3** Following detailed discussions with Planning and Road Services, the modifications in Appendix A have been proposed to the planning obligation. The modifications proposed are still in keeping with the general principles of the signed planning obligation. Road Services have agreed to replace the traffic signals at the Castlegreen Street / Greenhead Road junction when they require to be renewed, and to undertake general traffic management works at Church Street /Strathleven Place Roundabout. The other works in terms of lining, road widening works and a parking survey will be funded by a contribution of £60,000 from the applicant for these works. All work will be phased into the Roads Service annual programme of works. The applicant has agreed that they would be willing to transfer the money to the Council once the Planning obligation has been discharged. Therefore there would be no requirement to relate it to a certain number of houses being occupied as the previous obligation required. This removes any uncertainty about the road improvements works being carried out.

West Dunbartonshire Local Development Plan (Proposed Plan)

- 7.4** The development of both the sites on either side of Castle Road for housing is supported by the above plan and removing a barrier to development can be seen as a positive step to achieve the redevelopment of these housing sites.

**8. CONCLUSION**

- 8.1** The current proposal sets out clearly what the developer will be expected to contribute and they have indicated that they are satisfied with the amounts to be paid. This would allow certainty for the developer whilst at the same time removing a significant barrier to the development of the existing and proposed housing sites on Castle Street. The road improvements are still considered to be necessary to mitigate against the cumulative road traffic increases associated with the existing and new housing. The proposed modifications would still allow the improvements to take place although they are to be delivered through a different mechanism. The proposed changes will help to facilitate development on the existing site and the adjacent vacant site in keeping with the Council's strategic priority of facilitating regeneration of key development sites.

**9. CONDITIONS**

- 9.1** None

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**Executive Director of Housing, Environmental**  
**and Economic Development**  
**Date: 13 August 2013**

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**Appendix:** None.

**Background Papers:**

1. Application forms and plans;
2. Planning application no: DC03/284 and DC10/065
3. West Dunbartonshire Local Plan 2010.
4. West Dunbartonshire Local Development Plan  
(Proposed Plan)

**Wards affected:** Ward 3 (Dumbarton)