

WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health
Manager****Planning Committee: 14th February 2024**

DC23/205/FUL: Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary Condition 7 of permission DC19/203 relating to the timing of footpath delivery for residential development site at Farm Road, Duntocher, Clydebank by Barratt Homes West Scotland.

1. REASON FOR REPORT

- 1.1** This application seeks to vary a condition attached to a planning permission in principle granted on appeal for an application proposal previously considered by the Planning Committee. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Grant** planning permission subject to the conditions set out in Section 9 below.

3. DEVELOPMENT DETAILS

- 3.1** The application relates to approximately 8.8 hectares of agricultural land on the northern edge of Duntocher. The site comprises two fields roughly similar in size, which are connected to each other by a narrow corridor. The north-eastern field lies on the west side of Farm Road, bounded by the back gardens of houses on Mirren Drive to the south and by the houses in the former Duntiglennan Farm buildings to the north. At its south-western corner is a connection into the south-western field, which is bordered by back gardens in Mirren Drive and Craigielea Road to the east and south. Both fields border farmland to the north and west. 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 is currently unused, and consists mainly of overgrown grassland. The south western field contains mature trees around its perimeter, and these are covered by a Tree Preservation Order.

- 3.2** Planning Permission in Principle application (ref:DC19/203) for the erection of 99 dwellinghouses, formation of access, landscaping, open space, SuDS and associated infrastructure was granted on appeal in September 2020, subject to seven conditions (ref: PPA 160-2030).
- 3.3** In March 2022, Matters Specified in Conditions application (DC22/049/MS) was submitted for conditions 1, 3, 5 and 7 of the planning permission in principle. Conditions 1, 3 and 5 related to the layout, siting and design of the proposed houses, access arrangements, car parking, levels, landscaping, garden space and provisions for waste, habitat survey, flooding and drainage. Condition 7 related to the provision of bus stops on Craigielea Road and associated footpath link. This application was refused by the Planning Committee in November 2022, but granted on appeal (PPA-160-2039) in January 2023.
- 3.4** The current application relates to Condition 7 of the planning permission in principle, which states that:
- “Unless otherwise agreed in writing by the Planning Authority, none of the houses within the development shall be occupied until bus stops and shelters have been provided on Craigielea Road, in locations to be agreed with the Council, as Roads Authority, and Strathclyde Partnership for Transport together with a footpath linking these stops with the development”.*
- 3.5** The current application seeks to vary the terms of Condition 7 under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The proposed variation would delay delivery of the footpath linking the bus stops to the housing development until occupation of the 64th house. The applicant has justified the variation on the basis that delivery of the footpath prior to the occupation of the 64th house would result in health and safety risks to users of the path. The variation sought only relates to the delivery of the footpath. No variation is sought to amend the requirement to provide the new bus stops on Craigielea Road prior to the occupation of the first house.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Roads Service offer no objections to the proposed variation of the condition.

5. REPRESENTATIONS

- 5.1** Thirteen objections have been received in connection with the proposed development. The full details are contained within the planning file and are available for public viewing. However, the points raised can be summarised as follows:

Residential Amenity

- Adverse noise effects.
- Adverse impacts on privacy.
- Development will result in air pollution from additional car travel from its greenbelt location.

Access and Parking

- Will result in additional traffic congestion and endanger the safety of pedestrians, mainly children.
- Could potentially restrict emergency vehicle access to Farm Road and adjacent streets.
- Insufficient road and pedestrian access has been provided.
- Will cause parking on pavements.
- Concern that additional bus stops will change the bus route along Craigielea Road with knock on adverse effects on traffic congestion.

Landscape and Visual Impact

- Will change the character and appearance of the local landscape.

Flood Risk and Drainage

- Flood risk.
- No information provided on how the existing drainage on the hill will be affected and any effects mitigated.

Other Issues

- Adverse effects on water pressure to existing properties.
- Adverse effects on food production from loss of agricultural land.
- Adverse impact on wildlife and eco structure.
- Condition 7 should be implemented as originally written.
- Concern that the applicant does not own all the land required for the footpath link.
- 'Off Site Bus Stops Plan' does not show existing paths.
- Bus stop on north side of Craigielea Road not required.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

- 6.1** As the principle of development has already been established through the earlier planning permission in principle (ref: PPA 160-2030), the policies referenced below only relate to those works within the scope of works and development associated with Condition 7.

National Planning Framework 4

- 6.2** Policy 1 relates to tackling the climate and nature crises and states that when considering all development proposals significant weight will be given to the global climate and nature crises. Policy 2 also relates to the climate in the form of climate mitigation and adaptation and states development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and development proposals will be sited and designed to adapt to current and future risks from climate change.
- 6.3** Policy 13 supports proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs.
- 6.4** Policy 14 requires that proposals be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. In addition, proposals are supported where they are consistent with the six qualities of successful places, including 'Connected', which promotes well connected networks that make moving around easy and reduce car dependency.
- 6.5** Policy 15 relates to local living and 20 minute neighbourhoods. Development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. Consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including access to sustainable modes of transport and high quality walking, wheeling and cycling networks.
- 6.6** It is considered that the application proposal being assessed complies with the relevant policies of NPF4 and is assessed fully in Section 7 below.

West Dunbartonshire Local Plan 2010

- 6.7** Policy SUS1 advises that the Council will pursue a sustainable approach to development and transportation issues by seeking to maintain and enhance the quality of the environment within the Plan area and integrating transportation and land-use planning matters.
- 6.8** Policy H5 safeguards and where possible seeks to enhance the character and amenity of existing residential area. Development within existing residential areas will be considered against the following criteria; the requirement to avoid over development which would have an adverse effect on local amenity, access and parking

- 6.9** Policy GD1 seeks to ensure that all new development is of a high quality of design, respects the character and amenity of the area and that increases in traffic volumes and adverse impacts on air quality are avoided or minimised by including provision for public transport, pedestrian and cycling access.
- 6.10** Policy T1 states that the Council supports measures to provide sustainable transport modes including footpaths, cycle routes and improved access to public transport. The Council will give favourable consideration to proposals which increase access to public transport services and path networks, particularly in respect of employment areas, provided there are no adverse impacts on the amenity of the surrounding area.
- 6.11** Policy T4 states that developers should ensure that sites are well integrated into walking, cycling and public transport routes, and should give priority to the positioning of footpaths, cycleways and bus stops at the main entrances to developments or within residential areas. Significant new development will be expected to be sited so as to be accessible to public transport networks and developer contributions will be required where such development is shown to impact on the public transport infrastructure, including railways, in Transport Assessments.
- 6.12** It is considered that 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

- West Dunbartonshire Local Development Plan (LDP2) Proposed Plan
- 7.1** On 15 March 2023, the Planning Committee took a decision that the Council would not adopt Local Development Plan 2. The Proposed Local Development Plan 2 (LDP2), incorporating the recommended modifications of the Examination Report received on 22 April 2020, which were accepted by the Planning Committee of 19 August 2020, remains the Council's most up to date spatial strategy and is therefore afforded significant weight in the assessment and determination of planning applications, subject to compatibility with NPF4. The Scottish Ministers' Direction relating to the adoption of LDP2, dated 18 December 2020, is also a material consideration.

- 7.2** 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). Criterion (b) states that all new development is required to ensure that streets are safe, comfortable and attractive for all users; creating an accessible, inclusive and walkable network of streets and paths which consider the role of streets as places for people first.
- 7.3** 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. Criterion (b) states that applicants should demonstrate how the design and layout of development prioritises active travel modes (linking work places, schools, community facilities and public transport hubs) and recreation routes, as well as maintains and enhances the quality and connectivity of the active travel network.
- 7.4** Policy CON1 requires that significant travel generating uses are designed to encourage sustainable transport. All new development will require to prioritise active travel, by incorporating new, and providing links to, existing footpaths, cycle routes and public transport routes.
- 7.5** It is considered that the application proposal being assessed complies with the relevant policies above as set out in the following assessment below.

Principle of Development and Section 42 applications

- 7.6** The principle of development on this site has already been established through the granting of planning permission in principle (ref: PPA 160-2030) and is not being revisited as part of this application. The advice from the Scottish Government (contained in Annex H of Circular 3/2022 – Development Management Procedures) is that in determining Section 42 applications, planning authorities may only consider the issue of the conditions to be attached to any resulting permission. As such, this application considers only the proposed variation to Condition 7 of the planning permission in principle in terms of the delivery timescale for the footpath link.

Public Transport Footpath Link – Condition 7

- 7.7** Condition 7, which seeks to facilitate the use of public transport by residents of the development, was attached to the planning permission in principle as detailed in paragraph 3.4 above. The locations of the bus stops and shelters have been agreed with the Council and were approved as part of the Matter Specified in Conditions permission.

The applicant has justified the footpath link being provided prior to the occupation of 64th house on the basis of health and safety considerations during construction.

- 7.8** Phase 1 of the development is located in the northern part of the site and it is accepted that the provision of a path linking the Phase 1 properties to the bus stops on Craigielea Road would bring pedestrians into closer contact with construction vehicles, plant and machinery which require to use an adjacent route to access the southern part of the development, which would still be under construction. It is noted that linking new houses within Phase 1 to the bus stops would require approximately 600m of unlit footpath to be formed through an active construction site, which could potentially pose health and safety risks for users of the path. The concerns raised by the applicant are accepted. In further assessing the proposed variation to the condition, a key consideration is the extent to which delaying delivery of the footpath would restrict pedestrian access from the Phase 1 properties to the agreed bus stops. As there is an existing asphalt, street lit and overlooked footpath available through the existing street network, via the main site access at Farm Road southwards along Craigielea Road and westwards to the agreed bus stops, it is considered that delaying delivery of the footpath would not significantly restrict pedestrian access for residents from Phase 1. The Council's Roads Service offers no objections to the proposed variation of the condition in terms of delaying the provision of the footpath link.
- 7.9** With respect to when it would be appropriate to deliver the footpath, the variation seeks to delay delivery until occupation of the 64th house, which is the first house in Phase 2. While the southern part of the site would still be under construction at this point, it is considered appropriate that the footpath should be delivered at the start of Phase 2 as this part of the site is significantly further from Farm Road than the Phase 1 part of the development. In light of the above, it is considered that the proposed variation is acceptable, as it would reduce health and safety risks to pedestrians while still ensuring that the footpath is delivered in time to promote pedestrian access between the development, particularly Phase 2, and the agreed bus stops. A condition is proposed that the development is completed through a continuous programme of construction and this will ensure that it remains that the delivery of the footpath link forms part of any development of the site.
- 7.10** The delivery of the footpath linking the development with public transport nodes contributes to the promotion of sustainable transport and the creation of a successful place. As such, it is supported by NPF4, the adopted Local Plan and proposed LDP2 policies set out in sections 6 and 7 of this report.

While the proposal seeks to vary the timescale for delivery of the footpath, it does not seek to completely remove the requirement, thereby meeting the terms of the above policies in terms of accessibility, permeability and promoting sustainable travel.

Access and Parking

- 7.11** It is noted that the objections raised a number of concerns related to access and parking. There is concern that the proposal would not provide sufficient road and pedestrian access and would adversely affect existing access by increasing traffic congestion, which could potentially endanger pedestrian safety and restrict emergency vehicle access to Farm Road. In addition, concerns are raised that the bus stop on the north side of Craigielea Road is not required and that the additional bus stops proposed will change the bus route along Craigielea Road. As the current application seeks only to vary the timescale for delivery of the footpath link, matters relating to parking, road access, additional bus stops and the level of pedestrian access are not material to the assessment of the application. These matters were fully addressed as part of the Planning Permission in Principle and the Matters Specified in Conditions permissions.

Other Matters Raised in Representations

- 7.12** A range of other issues have been raised in the objections received, which have not already been assessed above. It is noted that the applicant does not own all the land required to deliver the footpath link. While the council is aware that the applicant does not control all the relevant land and acknowledges that this could potentially affect delivery, it is understood that discussions are ongoing between the applicant and the land owner. Should no agreement be reached then the applicant may require to revisit the matter and any additional amendments to the requirements to provide the footpath link will require a further application to be submitted for consideration. The outstanding ownership issues does not impact on the determination of this application.
- 7.13** The other issues raised include adverse impacts on residential amenity (i.e. noise disturbance, privacy and air pollution), landscape character, wildlife and eco structure, food production, flood risk, drainage and water pressure to existing properties. These matters are not considered material to the assessment of this application, which relates solely to the delivery timescale of the footpath link. It is also considered that such matters were fully addressed as part of the Planning Permission in Principle and the Matters Specified in Conditions approvals

8. CONCLUSION

- 8.1** The acceptability of the principle of residential development on the site is already established, with the granting of planning permission in principle at appeal. The proposed variation is acceptable as it would reduce health and safety risks to residents pedestrians while still ensuring that the footpath is delivered to promote pedestrian access between two phases of the development. .
- 8.2** As the effect of granting planning permission for a Section 42 application is that a new and separate standalone permission exists for the development, those conditions which were attached to the Planning Permission in Principle are re-imposed to this permission, including Condition 7, as varied by this permission if approved together with an additional condition regarding the continuous implementation of both phases of the development.

9. CONDITIONS

1. No development shall commence on site until such time as approval of the detailed design and layout of the residential development (hereinafter called "the matters specified in conditions") has been granted by the planning authority. Any application for approval of matters specified in conditions shall be submitted before the expiration of three years from the date of this planning permission in principle and shall include:
 - a) the overall site layout;
 - b) the orientation, size, height, design and external appearance of the proposed houses;
 - c) the means of drainage and sewage (including perimeter drainage) which shall incorporate the principles of Sustainable Drainage Systems (SuDS);
 - d) details of the full access arrangements (including a swept path analysis to demonstrate the suitability of the road layout within the site for refuse vehicles) ;
 - e) provisions for car parking;
 - f) boundary walls/fences to be erected and/or retained;
 - g) existing and proposed site levels and floor levels;
 - h) hard and soft landscaping for the site;
 - i) the provision of private open space within each house plot to West Dunbartonshire Council's Residential Design Guidance Standards; and
 - j) provisions for the storage and collection of waste arising from the development.

2. Prior to the commencement of development on site, details of the measures to be taken to protect the existing trees on the site, as identified in the Tree Survey and Arboricultural Report, dated September 2019, shall be submitted to and approved in writing by the planning authority. The approved measures shall thereafter be fully implemented during the course of all construction works on the site. None of these trees shall be felled, lopped or topped except as otherwise approved by the authority.
3. Further to Section 4.2 of the approved Extended Phase 1 Habitat Survey (dated 15 August 2019) the further badger, otter, water vole and bat surveys and assessments shall be carried out and submitted for approval by the planning authority as part of the detailed application(s) for the matters specified in conditions. If no works have commenced on site by 1 August 2021, a new habitat survey shall be undertaken and submitted as part of the detailed application(s). This shall either confirm that the findings and recommendations of the original survey remain valid or alternatively outline further recommendations as required based on current circumstances.
4. No development shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeological Service.
5. Further to Appendix 4: 'Flood Risk Assessment' of the approved Engineering Assessment and Drainage Report (dated September 2019), any modification or alterations to the indicative masterplan layout of the proposed residential development (as shown on approved plan 'Masterplan' (Drawing No. 5914(2) S005 Rev E) shall be subject to a further Flood Risk Assessment. This shall be submitted as part of the application(s) for the approval of matters specified in conditions.
6. No development shall commence on site until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include the following information:
 - a) a site management plan including details of the management/storage of soil and construction materials, of the storage of all waste materials, and for the parking of all vehicles associated with the construction operations;

- b) a construction method statement, detailing the hours of construction operations and deliveries, measures to prevent the transmission of noise to adjoining residents, and measures to control the spread of dust from the site;
 - c) details of wheel-washing arrangements;
 - d) a construction traffic management plan; and
 - e) details of construction stage sustainable drainage measures, including provision for
 - f) the prevention of pollution of groundwater or surface watercourses.
7. Unless otherwise agreed in writing by the Planning Authority, none of the houses within the development shall be occupied until bus stops and shelters have been provided on Craigielea Road, in locations to be agreed with the Council, as Roads Authority, and Strathclyde Partnership for Transport. Furthermore a footpath linking these stops with the development shall be provided prior to the occupation of the 64th dwellinghouse in the development site.
8. That the development shall be implemented in a continuous programme of construction commencing with the northern field as Phase 1 and concluding with the southwestern field as Phase 2.

Pamela Clifford
Planning, Building Standards and Environmental Health Manager
Date: 14th February 2024

Person to Contact: Pamela Clifford, Planning, Building Standards and Environmental Health Manager
Pamela.Clifford@west-dunbarton.gov.uk

James McColl, Development Management Team Leader
James.Mccoll@west-dunbarton.gov.uk

Appendix: Location Plan

Background Papers:

1. Application forms and plans
2. Consultation responses
3. National Planning Framework 4
4. West Dunbartonshire Local Plan 2010
5. Proposed West Dunbartonshire Local Development Plan 2 2020, as amended
7. Representations
Planning Appeal Decisions PPA-160-2030 and
8. PPA-160-2039

Wards affected: Ward 4 (Kilpartick)