

WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 15th March 2023**

DC22/049/MSC: **Planning appeal decision - 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**

1. Purpose

The purpose of this report is to advise the Committee of the outcome of the above appeal.

2. Recommendation

- 2.1** It is recommended that the Committee note the outcome of the appeal and associated partial award of expenses to the appellant.

3. Background

- 3.1** 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.
- 3.2** 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.
- 3.3** Submitted application DC22/049/MSC considered the details in respect 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.
- 3.4** The proposed development would provide 95 detached dwellinghouses and four semi-detached dwellinghouses with seven different house types, all of which will be two storeys in height.

- 3.5** The application for matters specified by condition was refused by the Planning Committee in October 2022 as it was not considered that proposal layout and design of the development achieved the right development in the right place, did not achieve housing that is of a high-quality, adaptable, and designed to be suitable for a mix of occupants, failed to achieve a layout that is of a high quality and easy to move around and failed to demonstrate the six qualities of successful places. The Committee further considered that the development would detract from both the local amenity and from the overall character of the local settlement and the adjoining Kilpatrick Hills.

4. Main Issues

- 4.1** Following the refusal of the matters specified by condition application, the applicant submitted an appeal together with a claim for award of expenses to the Directorate for Planning and Environmental Appeals.
- 4.2** The appeal decision was published on 31st January 2023. The Reporter upheld the appeal and granted the application for matters specified by condition. In reviewing the six qualities of successful places, the Reporter found the development to protect the remaining landscape features and that the creation of landscaped open space areas and the use of a permeable street layout with pedestrian links to the surrounding area would lead to the creation of a successful place. The Reporter further considered the house type design to be attractive and considered that the proposals have the potential to deliver a high-quality development. Whilst noting that there is no significant variation in house sizes, the Reporter found that to sit comfortably alongside the earlier expansion into the hillside at Duntocher. The Reporter went on to consider that by adhering to the key elements of the design concept masterplan, the proposed development as a whole would not have any new adverse impacts on the landscape that were not anticipated when the planning permission in principle was granted.
- 4.3** Overall, the Reporter concluded that the development proposals accord with the relevant provisions of the development plan and the terms of the planning permission in principle, and that there were no material considerations which would justify refusing the various matters incorporated within the submitted proposals.
- 4.4** In considering the claim for the award of expenses, the Reporter found the Council's position overall to be based on planning matters and highlighted concerns that could, in part, be justified (primarily the six qualities of successful places). The Reporter considered that this was not unreasonable. However, the Reporter went on to consider that it should not have been necessary for the matters that relate to the visual impacts on the landscape (reason 3) or the impact on the character of the settlement (part of reason 4) to have come before the Scottish Ministers on appeal. Accordingly, the Reporter considered that the Council did act unreasonably in this respect and should meet the appellant's expenses of the appeal in relation to these two reasons for refusal. A partial award of expenses in the appellant's favour was therefore allowed.

5. People Implications

- 5.1** There are no people implications associated with this report.

6. Financial and Procurement Implications

6.1 The partial award of expenses will be met from the Planning and Building Standards budget. At the time of writing the report the expenses amount has not been submitted by the appellant.

7. Risk Analysis

7.1 There are no risks associated with this report.

8. Equalities Impact Assessment (EIA)

8.1 There are no equalities issues associated with this report.

9. Consultation

9.1 Statutory consultation was undertaken during the consideration of the planning application.

10. Strategic Assessment

10.1 The appeal decision is considered to have no implications in terms of the strategic priorities.

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Date: 15th March 2023

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Appendices: None

Background Papers:

1. Planning Committee report – DC22/049/MSC
2. Planning appeal decision PPA-160-2039 - [Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/topics/dpea/cases/PPA-160-2039)

Wards affected: Ward 4 (Kilpatrick)