

Agenda



Planning Committee

Date: Wednesday, 15 March 2023

Time: 10.00 a.m.

Venue: Civic Space,
Council Offices, 16 Church Street, Dumbarton.

Contact: Email: Nicola.moorcroft@west-dunbarton.gov.uk
Committee.admin@west-dunbarton.gov.uk

Dear Member

Please attend a meeting of the **Planning Committee** as detailed above.

The business is shown on the attached agenda.

Yours faithfully

PETER HESSETT

Chief Executive

Distribution:-

Councillor Lawrence O'Neill (Chair)
Councillor Gurpreet Singh Johal (Vice Chair)
Councillor Karen Conaghan
Councillor Ian Dickson
Councillor Daniel Lennie
Provost Douglas McAllister
Councillor June McKay
Councillor Chris Pollock
Councillor Hazel Sorrell
Councillor Sophie Traynor

All other Councillors for information

Date of Issue: 2 March 2023

PLANNING COMMITTEE
WEDNESDAY, 15 MARCH 2023

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have an interest in any of the items of business on this agenda and the reasons for such declarations.

3 OPEN FORUM

The Committee is asked to note that no open forum questions have been submitted by members of the public.

4 MINUTES OF PREVIOUS MEETING 5 – 9

Submit for approval as a correct record, the Minutes of Meeting of the Planning Committee held on 8 February 2023

5 NOTE OF VISITATION 11 – 12

Submit, for information, Note of Visitation carried out on 6 February 2023.

6 DEVELOPMENT PLAN UPDATE 13 – 23

Submit report by the Planning, Building Standards and Environmental Health Manager, advising of the changes to the status of development plan documents.

7/

**7 DC22/049/MSC: PLANNING APPEAL DECISION – APPROVAL 25 – 27
OF MATTERS SPECIFIED IN CONDITIONS 1,3,5 AND 7 OF PPIP
APPROVAL DC19/203 APPROVAL FOR THE ERECTION OF 99
DWELLING HOUSES, FORMATION OF ACCESS,
LANDSCAPING, OPEN SPACE, SUDS AND ASSOCIATED
INFRASTRUCTURE AT FARM ROAD, DUNTOCHER, CLYDEBANK**

Submit report by the Planning, Building Standards and Environmental Health Manager, advising of the outcome of the appeal and associated partial award of expenses to the appellant.

PLANNING COMMITTEE

At a Meeting of the Planning Committee held in Civic Space, 16 Church Street, Dumbarton, on Wednesday, 8 February 2023 at 10.00 a.m.

Present: Councillors Karen Conaghan, Gurpreet Singh Johal, Daniel Lennie, June McKay, Lawrence O'Neill, Chris Pollock, Hazel Sorrell and Sophie Traynor.

Attending: Pamela Clifford, Planning, Building Standards and Environmental Health Manager; James McColl, Development Management Team Leader; Nigel Ettles, Section Head – Litigation (Legal Officer); and Nicola Moorcroft, Committee Officer.

Apologies: Apologies for absence were intimated on behalf of Provost Douglas McAllister and Councillor Ian Dickson.

Councillor Lawrence O'Neill in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Planning Committee held on 14 December 2022 were submitted and approved as a correct record.

NOTE OF VISITATION

A Note of Visitation carried out on 12 December 2022, a copy of which forms Appendix 1 hereto, was submitted and noted.

OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

PLANNING APPLICATION

A report was submitted by the Planning, Building Standards and Environmental Health Manager in respect of the following planning application:-

DC22/184/FUL - Erection of double garage at 3 Kirkton Grove, Dumbarton G82 4BF, by Mr J Lafferty

Reference was made to a site visit that had been undertaken in respect of the above application. The Development Management Team Leader was heard in further explanation of the report and in answer to Members' questions.

The Chair invited Ms Jen Crocket, objector, to address the Committee. Ms Crocket was heard in support of her objections and those of other residents, in answer to Members' questions.

After discussion and having heard the Development Management Team Leader in further explanation, and in answer to Members' questions, the Committee agreed:-

- (1) to reverse the order of the conditions set out in Section 9 of the report as detailed within Appendix 2 hereto; and
- (2) to grant planning permission subject to the conditions set out in Section 9 of the report, as detailed within Appendix 2 hereto.

PLANNING PERFORMANCE FRAMEWORK 2021-22

A report was submitted by the Planning, Building Standards and Environmental Health Manager, informing of the recent comments received from the Scottish Government, regarding the Planning Performance Framework submitted by the Council for 2021-22.

After discussion and having heard the Planning, Building Standards and Environmental Health Manager in further explanation and in answer to Members' questions, the Committee agreed to note the content of the report and the comments received from the Scottish Government.

PLANNING APPEAL DECISION - PLANNING APPLICATION DC22/096/FUL - CHANGE OF USE TO ALLOW FITTING OF TYRES TO MOTOR VEHICLES TOGETHER WITH ASSOCIATED WORKS (RETROSPECTIVE) ON LAND ADJACENT TO THE PUBLIC HOUSE, DUMBARTON ROAD, DUNTOCHER, CLYDEBANK.

A report was submitted by the Planning, Building Standards and Environmental Health Manager, advising of the outcome of the appeal to change of use to allow fitting of tyres to motor vehicles together with associated works at the above address.

After discussion and having heard the Planning, Building Standards and Environmental Health Manager in further explanation and in answer to Members' questions, the Committee agreed to note the outcome of the appeal.

The meeting closed at 10.32 a.m.

DRAFT

**PLANNING COMMITTEE
NOTE OF VISITATION – 12 DECEMBER 2022**

Present: Councillor Ian Dickson

Attending: James McColl - Acting Development Management Team Leader

SITE VISIT

A site visit was undertaken in connection with the undernoted planning application:-

Former Exciseman's House Dumbarton Road, Bowling G60 5BQ

DC22/088/LBC – Demolition of Category B Listed Building (Former Exciseman's House), at Former Exciseman's House Dumbarton Road, Bowling G60 5BQ by Swan Group

**DC22/184/FUL - Erection of double garage at 3 Kirkton Grove,
Dumbarton G82 4BF, by Mr J Lafferty**

GRANT planning permission subject to the following conditions:-

1. That prior to the commencement of works on site, full details of all proposed external finishing materials, including roofing materials, shall be submitted to and approved in writing by the Planning Authority. Works shall then proceed as approved unless an alternative is otherwise agreed in writing by the Planning Authority.
2. The ancillary structure hereby approved shall be used solely for domestic ancillary purposes as a garage and storage by occupier of 3 Kirkton Place, Dumbarton. For the avoidance of doubt, this domestic ancillary structure may not function, be used or be sold as an entirely separate dwelling house or commercial premises.

DRAFT

PLANNING COMMITTEE

NOTE OF VISITATION – 6 FEBRUARY 2023

Present: Councillors Conaghan, O'Neill, Pollock, Singh Johal, and Traynor.

Attending: James McColl - Acting Development Management Team Leader

SITE VISIT

A site visit was undertaken in connection with the undernoted planning application:-

3 Kirkton Grove, Dumbarton G82 4BF

DC22/184/FUL - Erection of double garage at 3 Kirkton Grove, Dumbarton by Mr J Lafferty

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

Subject: Development Plan Update**1. Purpose**

- 1.1 The purpose of this report is to advise Committee of changes to the status of development plan documents.

2. Recommendation

- 2.1 It is recommended that the Committee agrees that:
- (1) the Proposed Local Development Plan (LDP2) (as amended by the Examination Report and Scottish Ministers' Direction) is not adopted and remains a material consideration in the determination of planning applications; and
 - (2) that supplementary guidance prepared in association with LDP2 now be referred to as LDP2 Planning Guidance.

3. Background

- 3.1 The development planning system in Scotland is changing with the introduction of the development planning provisions of the Planning (Scotland) Act 2019. The National Planning Framework (NPF4) is now part of the development plan for all planning authorities with local development plans still to be prepared for each planning authority. Strategic development plans (e.g. Clydeplan) will no longer form part of the development plan.

4. Main IssuesNational Planning Framework and Scottish Planning Policy

- 4.1 The fourth National Planning Framework (NPF4) was adopted by the Scottish Government on 13 February 2023, superseding the third National Planning Framework (NPF3) and Scottish Planning Policy document which were published in June 2014. NPF4 now forms part of the development plan for West Dunbartonshire (and all other planning authorities in Scotland). This is a change in status from NPF3 and Scottish Planning Policy, which were material considerations but not part of the development plan. As planning applications are to be determined in accordance with the development plan, unless material considerations indicate otherwise, NPF4 has an enhanced status in the determination of planning applications. The Town and Country Planning (Scotland) Act 1997 states that where there is incompatibility between a provision of NPF4 and a provision of a local development plan,

which ever of them is later is to prevail. This means that, where incompatibility exists, greater weight should be given to NPF4 compared to the adopted and proposed local development plans currently in place in West Dunbartonshire.

- 4.2** A summary of the content of NPF4 is attached as Appendix 1 and committee reports and reports of handling will now refer to the document as part of the development plan and will form the basis for planning application decisions. A training session for Elected Members providing more detail on the status and content of NPF4 is scheduled for 15 March 2023.

Clydeplan Strategic Development Plan

- 4.3** The Clydeplan Strategic Development Plan ceased to form part of the development plan on 13 February 2023, and will no longer be referred to in planning decisions. In place of strategic development plans, planning authorities are to prepare regional spatial strategies. These will not form part of the development plan, but planning authorities are to have regard to regional spatial strategies when preparing local development plans. The current intention is for the eight Glasgow City Region authorities to collectively prepare a regional spatial strategy. Scottish Government guidance in relation to regional spatial strategies is awaited.

Local Development Plan

- 4.4** The current adopted local development plan for the West Dunbartonshire Council planning authority area is the West Dunbartonshire Local Plan 2010. Although dated, it remains part of the statutory development plan for the West Dunbartonshire planning authority area, and is still relevant for decision-making purposes.
- 4.5** On 19 August 2020, following receipt of the examination report, the Committee agreed to adopt the second West Dunbartonshire Local Development Plan (LDP2), incorporating all of the recommended modifications set out in the examination report. Following submission of notice of the Council's intention to adopt the plan to the Scottish Ministers, a Direction was issued by the Scottish Ministers in December 2020 requiring changes be made to the 'Delivering Homes' chapter prior to it being adopted. The Council received legal advice that making the changes required by the Scottish Ministers' Direction could result in a legal challenge to the adoption of LDP2. Further legal advice was sought in January 2023 in relation to adopting the plan in the context of NPF4 being adopted and the Clydeplan Strategic Development Plan superseded. The advice received was that grounds for a legal challenge to the adoption of LDP2 remain, and that given the publication of NPF4 the Scottish Ministers may not now agree to the adoption of LDP2 as the national planning policy framework has changed since LDP2 was prepared and examined.
- 4.6** Officers are of the view that the Council should not adopt LDP2 owing to the legal and financial risks associated with that action. Instead, the Proposed Local Development Plan incorporating the recommended modifications of the

examination report, as agreed at the 19 August 2020 Planning Committee, will remain a material consideration in the determination of planning applications. The Scottish Ministers' Direction is also a material consideration in the determination of relevant planning applications. The document, incorporating the examination modifications will be referred to as Proposed West Dunbartonshire Local Development Plan (2020, as amended) and in shorter terms as Proposed LDP2 (2020, as amended).

Planning Guidance

- 4.7** Through changes introduced by the Planning (Scotland) Act 2019, supplementary guidance associated with a local development plan will not be statutory in nature and will not form part of the development plan on adoption. LDP2 identifies a number of topics for which supplementary guidance is to be produced, and some of these have already been consulted on and finalised versions approved by Planning Committee. As it is now proposed that LDP2 will not become adopted, the supplementary guidance prepared in association with it will not become adopted. It is therefore proposed that this be referred to as 'Planning Guidance', which the title is given to other non-statutory guidance. However, a distinction should be retained between planning guidance prepared in association with LDP2 and other more general planning guidance. Planning guidance will therefore be referred to as either 'LDP2 Planning Guidance' or 'Planning Guidance'.

New Local Development Plan

- 4.8** As the Council's adopted local development plan dates from 2010, it is important that work starts as soon as possible on a new plan – LDP3. Officers are waiting for the Scottish Government to publish finalised Local Development Planning Regulations and Guidance with regards to the new local development planning process before bringing a timetable for the preparation of the new plan to Committee. The publication of the Regulations and Guidance is expected in Spring 2023.
- 4.9** In the meantime work has commenced in relation to the preparation of an open space strategy and play sufficiency assessment, both of which are requirements introduced by the Planning (Scotland) Act 2019. The open space strategy process involves an audit of all relevant open spaces within the authority area, an assessment of current and future requirements, and the preparation of a strategy including policies about the development, maintenance and use of open spaces. The play sufficiency assessment is to include statements relating to the quality, quantity and accessibility of play opportunities in the planning authority area.
- 4.10** The Planning (Scotland) Act 2019 also introduces a requirement for Councils to invite local communities to prepare local place plans. These are to relate to the development or use of land, and may also identify land and buildings that the community body considers to be of particular significance to the local area. The proposed Council approach to encouraging the preparation of local place plans by communities is also under development. This will be discussed

at the Elected Members training on the 15 March 2023, and also brought to a future meeting of the Planning Committee.

5. People Implications

- 5.1** The Planning (Scotland) Act 2019 introduces significant new requirements for planning authorities which will have an impact on the workloads, skills and training requirements of planning staff.

6. Financial and Procurement Implications

- 6.1** There are no financial or procurement implications associated with this report.

7. Risk Analysis

- 7.1** Not adopting LDP2 will reduce the risk of a legal challenge to the Council. However not having an up-to-date local development plan may have an impact on planning decisions taken by the Council and could result in appeal decisions being upheld.

8. Equalities Impact Assessment (EIA)

- 8.1** The documents referred to in this report have been subject to an equality impact assessment where required.

9. Environmental Sustainability

- 9.1** The documents referred to in this report have been subject to a strategic environmental assessment where required.

10. Consultation

- 10.1** The documents referred to in this report have been subject to statutory consultation.

11. Strategic Assessment

- 11.1** The Council's land use planning documents and processes are considered to support all of the Council's strategic priorities.

Pamela Clifford

Planning, Building Standards and Environmental Health Manager

Date: 15 March 2023

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

Alan Williamson, Development Planning & Place Team Leader
alan.williamson@west-dunbarton.gov.uk

Appendices: Appendix 1: Summary of Fourth National Planning Framework (NPF4)

Background Papers: Fourth National Planning Framework (NPF4) -
<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2023/02/national-planning-framework-4/documents/national-planning-framework-4-revised-draft/national-planning-framework-4-revised-draft/govscot%3Adocument/national-planning-framework-4-revised-draft.pdf>

Wards Affected: All

Fourth National Planning Framework 4 (NPF4) – summary of content

NPF4 consists of 3 parts:

- Part 1 – A National Spatial Planning Strategy for Scotland 2045
- Part 2 – National Planning Policy
- Part 3 - Annexes

Part 1 – A National Spatial Planning Strategy for Scotland 2045

NPF4 states that our future places will be planned in line with 6 overarching spatial principles:

- **Just transition.** We will empower people to shape their places and ensure the transition to net zero is fair and inclusive.
- **Conserving and recycling assets.** We will make productive use of existing buildings, places, infrastructure and services, locking in carbon, minimising waste, and building a circular economy.
- **Local living.** We will support local liveability and improve community health and wellbeing by ensuring people can easily access services, greenspace, learning, work and leisure locally.
- **Compact urban growth.** We will limit urban expansion so we can optimise the use of land to provide services and resources, including carbon storage, flood risk management, blue and green infrastructure and biodiversity.
- **Rebalanced development.** We will target development to create opportunities for communities and investment in areas of past decline and manage development sustainably in areas of high demand.
- **Rural revitalisation.** We will encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together.

Through these spatial principles, it is intended that the national spatial strategy will support the planning and delivery of:

- **Sustainable places**, where we reduce emissions, restore and better connect biodiversity
- **Liveable places**, where we can all live, better, healthier lives; and
- **Productive places**, where we have a greener, fairer and more inclusive wellbeing economy.

To support the national spatial, regional spatial strategies are identified for different parts of Scotland. West Dunbartonshire sits within the Central region. This area broadly covers central Scotland from the Glasgow city region and the Ayrshires in the west to Edinburgh city region in the east, including the Tay cities, the Forth Valley and Loch Lomond and The Trossachs National Park. The strategy for this area aims to:

- Provide net zero energy solutions including extended heat networks and improved energy efficiency, together with urban greening and improved low carbon transport.
- Pioneer low carbon, resilient urban living by rolling out networks of 20 minute neighbourhoods, future proofing city and town centres, accelerating urban greening, investing in net zero homes, and managing development on the edge of settlements.
- Target economic investment and build community wealth to overcome disadvantage and support a greener wellbeing economy.

There are eighteen National Developments identified in NPF4, some of which are nationwide and some relating to regions or specific locations. The National Developments relevant to the central region are:

- Pumped Hydro Storage (Scotland wide)
- Strategic Renewable Electricity Generation and Transmission Infrastructure (Scotland wide)
- Circular Economy Material Management Facilities (Scotland wide)
- Urban Sustainable, Blue and Green Drainage Solutions (Edinburgh and Glasgow)
- Urban Mass/Rapid Transit Networks (Aberdeen, Edinburgh and Glasgow)
- Central Scotland Green Network
- National Walking, Cycling and Wheeling Network (Scotland wide)
- Digital Fibre Network (Scotland wide)
- Clyde Mission
- High Speed Rail

Part 2 – National Planning Policy

On adoption, NPF4 will become part of the development plan, and the policies within it will be used to assess applications for planning permission. The table below sets out the number and names of the policies within NPF4, along with initial officer views on the nature of the policy (i.e. whether it is a general policy applying to all development proposals, or more related to development of a particular type or within a particular area), and a summary of the policy purpose.

Policy	Type	Comment
<i>Sustainable Places</i>		
1. Tackling the climate and nature crises	General – applies to all development	Very general policy stating significant weight to be given to climate and nature crises.
2. Climate mitigation and adaptation	General – applies to all development	Development to be sited and designed to minimise greenhouse gases and to adapt to risks from climate change.
3. Biodiversity	General – applies to all development, although some criteria are only applicable to certain development types.	Overall purpose is to enhance biodiversity. Quite a few criteria in this one, some applicable to all, one re national/major/EIA, one re local excluding householder.
4. Natural places	General – applies to all development	Overall purpose is to protect the natural environment, including designated sites and protected species. Although it protects the 'natural environment' in general, I would think in the main this policy will be used

Policy	Type	Comment
		in relation to protected sites and species.
5. Soils	Area specific	Protects all soils so applicable to all development affecting soils, but focus is on agricultural land, peatland and carbon-rich soils, and also undeveloped land.
6. Forestry, woodland and trees	Area or development specific	Supports expansion of woodland/tree cover and protects trees/woodland including 'veteran' trees (defined in Glossary), so goes beyond just protecting TPOs (which are not mentioned in policy).
7. Historic assets and places	Area or building specific	Protects historic assets and places with focus on designated sites/buildings but non-designated also protected.
8. Green belts	Area specific	Sets out the types of development acceptable in the green belt and other requirements to be met.
9. Brownfield, vacant and derelict land and empty buildings	Area or building specific	Supports brownfield development and reuse of existing buildings. Limits greenfield development and demolition. Covers contaminated land.
10. Coastal development	Area specific	Sets out considerations for coastal development including coastal defence measures.
11. Energy	Development specific	Sets out considerations for renewable, low-carbon and zero emissions technologies.
12. Zero waste	General – applies to all development	Sets out considerations re waste for all developments, supporting the minimisation of waste at the development and operational phases. Also sets out considerations for the assessment of waste infrastructure.
13. Sustainable transport	General – applies to all developments	Supports sustainable transport through a number of considerations, including low/no car parking in urban

Policy	Type	Comment
		locations well-served by public transport.
<i>Liveable Places</i>		
14. Design, quality and place	General – applies to all developments	Applies to the six qualities of a successful place (refer also to Annex D)
15. Local living and 20 minute neighbourhoods	Development specific	This policy would be relevant to residential development and how accessible it is to services, and also for proposals for those services. The policy lists some relevant service types.
16. Quality homes	Development specific	Applicable to residential (including gypsy/ traveller/ travelling showpeople) and householder development. Includes affordable housing requirement, and requirement for Statement of Community benefit for development of 50+ houses.
17. Rural homes	Development specific	Applicable to proposals for new homes in rural areas (not clear if this includes green belt, but don't think so).
18. Infrastructure first	General – applies to all development	Covers proposals for infrastructure and also development impacting on infrastructure.
19 Heating and cooling	General – applies to (nearly) all development	Requires consideration of how buildings are to be heated. Covers heat networks and the use of waste and surplus heat. Also covers energy infrastructure development.
20. Blue and green infrastructure	Development or area specific	Protects and supports blue/green infrastructure (open space), including temporary open/green space. Requires effective management/maintenance plans including funding arrangements.
21. Play, recreation and sport	Development or area specific	This relates to development involving loss of sports facilities or open space. Also proposals for open space, sports facilities and play

Policy	Type	Comment
		equipment, and new streets and public realm.
22. Flood risk and water management	General – applies to all development	Relates to development at risk of flooding, or developments that could increase the risk of flooding. Consider public water mains connectivity. Supports natural flood risk management.
23. Health and safety	General – applies to all development	Considers health-related proposals, developments likely to have an adverse impact on health, air quality, noise, suicide, hazardous sites/substances, HSE/ONR/SEPA consultations, explosive sites.
24. Digital infrastructure	Development specific	Relates to the inclusion of, or proposals for, digital infrastructure.
<i>Productive Places</i>		
25. Community wealth building	Development specific	Relates to development that contributes to community wealth building, and also proposals linked to community ownership and management of land.
26. Business and industry	Development and area specific	Relates to business and industry uses and areas
27. City, town, local and commercial centres	Development and area specific	Relates to development within centres and for footfall generating uses (examples included). Also relates to hot food takeaways, betting offices, high interest money lending and drive-throughs. Town centre living.
28. Retail	Development specific	Relates to retail development. Applies sequential approach. Includes click-and-collect lockers
29. Rural development	Area specific	Relates to proposal for development in rural areas – presumably outwith green belt. Lists supported development types and assessment criteria.
30. Tourism	Development specific	Relates to proposals for or affecting tourist facilities.

Policy	Type	Comment
		Includes huts and short-term lettings.
31. Culture and creativity	Development specific	Relates to proposals for or affecting creative or cultural venues. Includes reference to public art requirements and 'agent of change principle'.
32. Aquaculture	Development and area specific	Relates to proposals for aquaculture, fish farms.
33. Minerals	Development specific	Limits fossil fuel extraction and does not support fracking. Protects and sets criteria for extraction of mineral deposits.

Part 3 - Annexes

The Annexes form an important part of the document and include:

Annex A: How to use this document – this annex sets out information on: the purpose of planning; the role of the National Planning Framework; the plan-led approach; and information on the structure and purpose of the document itself.

Annex B: National Developments Statements of Need – this annex sets out the statement of need and additional information in relation to the eighteen National Developments.

Annex C: Spatial Planning Priorities – this annex provides greater details on regional spatial priorities to guide the preparation of Regional Spatial Strategies and Local Development Plans

Annex D: Six Qualities of Successful Place – this Annex sets matters to be considered when taking account of the six qualities of successful place. These qualities are: Healthy; Pleasant; Connected; Distinctive; Sustainable; and Adaptable.

Annex E: Minimum All-Tenure Housing Land Requirement (MATHLR) – The MATHLR is the minimum amount of land, by reference to the number of units, that is to be provided by each planning authority for a 10 year period. The MATHLR is expected to be exceeded in each Local Development Plan's Housing Land Requirement. The MATHLR for the West Dunbartonshire planning authority is 2,100. This means that the next Local Development Plan for West Dunbartonshire will need to identify land for a minimum of 2,100 units for its 10 year timeframe.

Annex F: Glossary of definitions – this Annex provides an extensive explanation of terms used within NPF4.

Annex G: Acronyms – this Annex explains the acronyms used in NPF4.

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.

Pamela Clifford
Planning, Building Standards and Environmental Health Manager
Date: 15th March 2023

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

Appendices: None

Background Papers:

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

Wards affected: Ward 4 (Kilpatrick)