

Planning Committee
25 January 2023

At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine

Present (Physical Participation)

Robert Foster, Timothy Billings Stewart Ferguson and Cameron Inglis

Present (Remote Participation)

Amanda Kerr, Jim Montgomerie, Ian Murdoch and Chloé Robertson.

Also Present (Physical Participation)

Todd Ferguson (Agenda Items 1 – 3).

In Attendance

J. Miller, Chief Planning Officer (Planning); R. Lynch, Senior Manager, J. Niven, Solicitor (Legal Services), H. Clancy, C. Stewart and S. Wilson Committee Services Officers (Democratic Services) (Chief Executive's Service).

Also in Attendance

G. Cloughley, G. Buckley and J. Martin (Objectors) and K. Murphy, S. Livingston and S. Fallon (Applicant's Representatives) (Agenda Items 1 – 3).

Chair

Councillor Foster in the Chair.

Apologies

Scott Davidson and Davina McTiernan.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the Meeting held on 22 November were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 21/01174/PPM: Site To North Of Summerlea Road And West Of Snowdon Terrace, Seamill, West Kilbride

Persimmon Homes have applied for planning permission for the erection of 220 dwelling houses and associated infrastructure and landscaping at the site to the north of Summerlea Road and West of Snowdon Terrace, Seamill, West Kilbride. 158 objections, 1 representation of support and 3 neutral representations were received and detailed in the report.

The Chair advised that he had accepted a request from an Objector to address the Committee in terms of their objections to the application. George Cloughley, Graham Buckley and Janet Martin were in attendance to speak to the terms of their objection. Persimmon Homes, as the applicant, had been invited to respond to the objections raised. Kevin Murphy, Steven Livingston and Simon Fallon were in attendance as representatives of the applicant.

The Senior Manager (Legal Services) outlined the terms of the Procedure for those addressing the Planning Committee and all parties confirmed their understanding and acceptance thereof.

Mr Cloughley addressed the Committee in support of the objections and highlighted there were 175 objections at LDP stage, 158 objections at the planning stage, 700 signatures on a petition, 200 people attended at candlelight vigil, over 100 people signed a letter from West Kilbride Community Council in support of the objections. Mr Cloughley referred to the 684 bedrooms on the developers' drawings but advised 831 were shown when looking at the individual house types. 220 houses were proposed but only 175 recommended by the Scottish Government and the 460 parking spaces stated in the application seemed a high number as the objectors could only see 300 parking spaces on the plans.

Mr Cloughley referred to the population numbers of West Kilbride and the possibility of an additional 1100 people, with a population of 4,700 this represents a 23% rise and advised the town did not have the infrastructure to cope with this. Mr Cloughley also advised the traffic census had been undertaken during lockdown. Mr Cloughley highlighted that the developer's plans showed houses built over the top of the pipe section of Wildcat Burn and also referred to the Reporter's recommendation that the developer should contribute to local infrastructure. Mr Cloughley advised the site entrance should be taken from Portencross road, the Transport Scotland conditions could not be addressed, and the application should be refused.

Mr Buckley also spoke in support of the objections, referring to previous planning applications that had been refused for the same site. He made reference to the Spatial Strategy under Policy One of the Local Development Plan and highlighted the proposed site was prime arable land used to produce 3 crops per year. Mr Buckley expressed the view that housing development should be advantageous and a benefit to the local community, while the proposed development was detrimental to the local community due to the inadequate infrastructure and services required for the development. It was Mr Buckley's position that all local councillors, local MSPs and West Kilbride Community Council were against the development.

Mr Buckley also highlighted the 9 conditions relating to trunk road modifications, crossing points, new footpaths and modifications to existing footpaths which were site specific and would not be relevant to another site and there was no provision for crossing the B7048.

Ms Martin also addressed the committee in support of the objections, advising that the local community do not want to expand the village while diminishing local services. She referred to the regeneration work of the local community over the past 20 years. Ms Martin also highlighted a lack of communication, clarity and consideration in terms of the consultation process.

Mr Murphy then addressed the Committee on behalf of the applicant, in response to the objectors. He referred to the allocation of the site proposed through the LDP in 2019 and the aim of the Spatial Strategy to provide a balance across North Ayrshire in terms of where new developments took place and the balance of the type of sites brought forward. Mr Murphy advised the site was intended in the LDP to play a key role in the delivery of new housing in North Ayrshire and support a number of key objectives, such as attracting inward investment, creating jobs, delivering economic growth, and growing the population of North Ayrshire (particularly with regard to attracting and retaining residents of a working age).

Mr Murphy referred to the mix of housing types on the site being specially designed to provide a range and choice for the local community at each stage of their housing journey, from first time buyers and families to those looking to downsize. He advised that the house types ranged from 2-bed starter homes to 5-bed detached family homes, as well as 16 bungalows designed to meet the needs of older people. Mr Murphy highlighted that, over the past 5 years, 32% of sales from outwith North Ayrshire and 81% of Persimmon Homes purchased in North Ayrshire had been to people under the age for 40 with 45% sold to first-time buyers.

Mr Murphy advised that the capacity for the site identified in the LDP was indicative, with the eventual unit numbers coming from a more detailed technical analysis of the site and surrounding infrastructure and could easily accommodate 220 houses. He indicated that Persimmon Homes were also committed to fund works to improve the local primary school.

Mr Murphy then referred to the layout of the site, highlighting the proposed retention of trees on Summerlea Road and Wildcat Lane, the maintenance of views to Arran along the A78 through a series of visual corridors, significant landscaping to the site, retention of the existing stonewall along the boundary and the introduction of new crossing points on the A78. He advised that Persimmon Homes had also addressed all road safety points raised by Transport Scotland and North Ayrshire Council Roads Department to ensure safe routes to the Primary School and village centre. A full flood risk assessment and drainage strategy had been completed, all surface water would be controlled by a sustainable urban drainage system and the site would continue to drain to Wildcat Burn. Eight of the 90 trees on site required to be removed, with a root assessment still required for a further 6 trees, and any tree removal would be offset with new tree planting management. To minimise disruption to the local community, a construction traffic management plan would be implemented, and Persimmon Homes would update the local community as the development advanced.

The objectors were then afforded an opportunity to make brief final comments. Mr Cloughley referred to the number of 2-bed houses and the pipe section of the Wildcat Burn to be accommodated through a field drain.

At the Chair's discretion, Councillor Todd Ferguson, as Local Member was invited to speak and expressed support for the objectors' comments and noted the reduction from 262 to 220 units feel short of the indicative 175 in the Local Development Plan.

Members then asked questions of the objectors and applicant's representatives and received further information on the following: -

- house numbers and the recommendation by the Scottish Government for 175 houses;
- use of adequate garages as parking spaces and the calculation of these spaces;
- the increase of approximately 25% in local population over the last 15 years; and
- the pipe burn and field drain at Wildcat Burn.

The Chief Planning Officer then outlined the terms of the planning report.

The Committee was invited to note that a road construction consent was required by Persimmon Homes to facilitate this development and a further condition, relating to road safety measures was proposed to allow pedestrians to safely cross the B7408.

Members had the opportunity to ask further questions and received clarification on the following: -

- the adequacy of the current local infrastructure to support the application in terms of the anticipated increase in population;
- local primary school improvements and proposed timescales for this;
- ongoing maintenance and additional staff due to the expansion of the local primary school;
- trees on the southern end of the site, and an area of Wild Cat Lane to be covered by a provisional Tree Preservation Order;
- road safety in light of an increased number of people crossing the B7408;
- consultation with the NHS and an apparent conflict between the information presented and the experience of local constituents;
- A detailed drainage assessment to identify any potential flood risk, the outcome of which had been factored into proposed Condition 23; and
- additional Primary School needs to meet the demand of the site.

Councillor Billings, seconded by Councillor Murdoch, moved that the application be refused on the grounds that Committee did not have adequate assurances on the medical practice provision for the local area.

Councillor Foster, seconded by Councillor Montgomerie, moved that the application be granted, subject to (a) the completion of a Section 75 Agreement on the required educational contributions, and (b) the conditions noted within the report

On a division and a roll call vote, there voted for the amendment Councillors Foster, Inglis, Kerr and Montgomerie and (4) and for the motion, Councillors Billings, Ferguson, Murdoch and Robertson (4), and on the casting vote of the Chair, the amendment was declared carried.

On a point of order, Councillor Billings requested clarification whether, in the event of an equality of votes, a casting vote should be used to maintain the status quo, which would in this case mean that the development should not proceed.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 3.35 p.m. for the Committee to receive legal advice. The meeting reconvened at 4.10 p.m. with the same Members and officers present and in attendance (as previously by remote electronic means or in person).

The Senior Manager (Legal Services) confirmed to the Committee that, in terms of Part 1(1) Preliminary and specifically Standing Order 19.6 relating to meetings and proceedings of the Council and Committees, a casting vote could be exercised by the Chair in these circumstances and the decision, therefore, stood. In addition, the terms of Schedule 7, paragraph 5(2) of the Local Government (Scotland) Act 1973 and the considerations to determining planning applications under the Town and Country Planning (Scotland) Act 1997 were further referred to.

Accordingly, the Committee agreed (a) to grant the application, subject to the following conditions: -

1. That prior to the commencement of the development, a written scheme of investigation for a programme of archaeological works shall be submitted to the Council, as Planning Authority, for written approval and agreement of the West of Scotland Archaeological Service. Thereafter any programme of works as agreed will be carried out in accordance with the written scheme to the satisfaction of the Council, as Planning Authority.
2. That prior to the commencement of the development, a desk study of the site to assess the likelihood of contamination and assist the design of an appropriate site investigation and subsequent suitable risk assessment, including remediation proposals if required, shall be undertaken. The study shall be verified by a suitably qualified Environmental Consultant and shall be submitted to and approved by the Council, as Planning Authority, prior to commencement of the development.
3. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of NAC Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of Council as Planning Authority.
4. On completion of the development, written verification detailing what was done by way of any remediation shall be submitted to the Council, as Planning Authority.
5. That prior to the commencement of the development, a Construction Environmental Management Plan (CEMP) shall be submitted for the approval of the Council, as Planning Authority. The CEMP shall include the proposed Dust Mitigation recommended in Appendix 6 of the Air Quality Impact Assessment report by ITP Energised, Project No 4667 v1, submitted as part of this application, dated 25th November 2021. The CEMP shall also include a Construction Traffic Management Plan which will include details of construction vehicle wheel washing. The development will be carried out in accordance with any CEMP as may be approved.

6. That prior to the commencement of the development, the detailed design for the proposed access to the trunk road, shall be submitted to the Council, as Planning Authority, for approval in consultation with Transport Scotland as the Trunk Roads Authority. Detailed designs shall be to a standard compliant with DMRB CD 123.
7. There shall be no access to or from the A78 trunk road until the new access to the trunk road has been constructed and completed in accordance with any details as approved under Condition 6. For the avoidance of doubt no access for construction traffic shall be taken from Summerlea Road.
8. That prior to the commencement of the development, details regarding the design for the proposed geometric alterations to the A78/B7048 priority junction, shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority. Any approved works shall be carried out prior to the occupation of any part of the site.
9. That prior to the commencement of the development, detailed design and final location for the proposed signal-controlled pedestrian crossing shall be submitted to the Council, as Planning Authority, for approval in consultation with Transport Scotland as the Trunk Roads Authority. Any crossing as may be approved shall be constructed prior to the occupation of any part of the site.
10. That prior to the commencement of the development, detailed design of the A78 footway between the pedestrian crossing and the A78/B7048 junction shall be submitted to the Council, as Planning Authority, for approval in consultation with Transport Scotland as the Trunk Roads Authority. Any footway as may be approved shall be constructed prior to the occupation of any part of the site.
11. That prior to the commencement of the development, details regarding the design for the proposed geometric alterations to the A78/Summerlea Road priority junction, shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority. Any approved works shall be carried out prior to the occupation of any part of the site.
12. That prior to the commencement of the development, detailed design and final location for the uncontrolled pedestrian crossing shall be submitted to the Council, as Planning Authority, for approval in consultation with Transport Scotland as the Trunk Roads Authority. Any crossing as may be approved shall be constructed prior to the occupation of any part of the site.
13. That prior to commencement of the development, a Phasing Plan shall be submitted for approval by the Council, in consultation with Transport Scotland as the Trunk Roads Authority. The development will thereafter be carried out in accordance with any phasing plan as may be approved.
14. That prior to the occupation of any part of the development, a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car has been submitted and approved by the Council, as Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

15. That prior to the commencement of the development details of all boundary treatments both within and on the edges of the site shall be submitted to the Council, as Planning Authority, for approval. Any boundary for the edge of the trunk road will be approved in consultation with Transport Scotland. Any proposed new boundary treatments shall include 13cm x 13cm gaps to allow animal movement.
16. That prior to the commencement of the development details of all existing and proposed landscaping and play areas, including management and maintenance details, shall be submitted to the Council, as Planning Authority, for approval. Landscaping shall include the recommendations set out in Section 7, Paras 3 – 5 and 10 of the Ecological Assessment report by JDC Ecology, submitted as part of this application, dated 1st December 2021.
17. That any landscaping scheme as may be approved under Condition 16 shall be carried out in the first planting season following completion or occupation of the houses within the relevant phases approved under condition 13, whichever is soonest, or unless otherwise agreed in writing by the Council, as Planning Authority. Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Council, as Planning Authority, gives written consent to any variation.
18. That the any play area for the southern end of the site approved under Condition 16 shall be erected and available for use prior to the occupation of any houses on Plots 19 to 26 or Plots 56 to 64 unless otherwise agreed in writing by the Council, as Planning Authority.
19. That the any play area for the northern end of the site approved under Condition 16 shall be erected and available for use prior to the occupation of any houses on Plots 181 to 189 or Plots 201 to 204 unless otherwise agreed in writing by the Council, as Planning Authority.
20. That prior to the commencement of the development details of tree protection measures during construction shall be submitted to the Council, as Planning Authority. The details should conform with BS 5837. Prior to the commencement of plots 44-52 an Arboricultural Impact Assessment to agree driveway positions is to be submitted to and approved by the Council, as Planning Authority. Any details as may be approved will be implemented prior to the commencement of any works.
21. That prior to the commencement of the development details of footway widening on the B7048 to a minimum of 2m, unless otherwise agreed in writing with the Council, as Planning Authority, from the junction of the A78 to No. 30 Portencross Road shall be submitted to the Council, as Planning Authority, for approval. Any details as may be approved shall be carried out prior to the occupation of the development.

22. That prior to the commencement of the development, details of measures to address the runoff entering the northeast corner of the site from the A78 and B7048 road junction are submitted to the Council, as Planning Authority, for approval. Thereafter the development will be carried out in accordance with any details as may be approved.
23. That prior to the commencement of the development, an appropriately detailed drainage assessment identifying any potential flood risk from the proposed surface water infrastructure at times up to and including the 1 in 200 year the critical storm event (plus climate change and urban creep allowances) shall be submitted to the Council, as Planning Authority, for approval. Where flood risk is confirmed, flood flow-paths should be designed and maintained to disperse exceedance flows to the water environment without affecting people and property during times of intense rainfall. Such flood flow-paths should be provided for approval prior to the commencement of the development.
24. That prior to the commencement of the development, the detailed design of the SuDS basin shall be provided to the Council, as Planning Authority, for approval. This should include measures such as a section of reduced crest level that would control overtopping when the holding capacity of the basin is exceeded, either during periods of intense rainfall or when the outfall is blocked. Thereafter the development will be carried out in accordance with any details as may be approved.
25. That prior to the commencement of the development, details of the site levels for the western side of the site shall be submitted to the Council, as Planning Authority, for approval. Thereafter the development will be carried out in accordance with any details as may be approved.
26. That prior to the commencement of the development, full details of water quality treatment measures are submitted to the Council, as Planning Authority, for approval. Thereafter the development will be carried out in accordance with any details as may be approved.
27. That the footpath links on the eastern side of the site shall be formed and open prior to the occupation of the adjacent house. The footpath link on the southern side of the site shall be formed and open prior to the occupation of Plot 53. The footpath link on the southern side of the western side of the site shall be formed and open prior to the occupation of Plots 190 and 191. The footpath link on the northern end of the western side of the site shall be formed and open prior to the occupation of Plot 153.
28. That, prior to the commencement of the development hereby approved, a statement containing details of the heat and power systems for the houses, which shall include low or zero carbon technologies to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met, shall be submitted for the written approval of the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with such details as may be approved unless otherwise agreed in writing with the Council, as Planning Authority.

29. That prior to the commencement of the development hereby approved, the developer shall provide full details of the proposed finishing materials for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the development shall progress in accordance with such details as may be approved.
30. That prior to the commencement of the development details of a pedestrian crossing for the B7048 to the east of the junction with the A78 shall be submitted to the Council, as Planning Authority, for approval. Any details as may be approved shall be carried out prior to the occupation of the development.

Councillors Montgomerie and Murdoch left the meeting at this point.

4. 22/00890/PPP: Site to North Of Kirn Point, Newton Road, Lochranza

John Thomson Construction Ltd have applied for planning permission in principle for four residential plots and re-aligned access path at the site to the north of Kirn Point, Newton Road, Lochranza. 56 objections, 53 from individuals and 3 on behalf of groups (Lochranza and Catacol Community Association, Arran Civic Trust and Community of Arran Seabed Trust) and 2 expressions of support were received and detailed in the report.

The Committee unanimously agreed to grant the application, subject to the following conditions: -

1. That prior to the commencement of any development on site, a further planning application(s) for the approval of the matters specified in this condition (MSC) must be submitted to and approved by North Ayrshire Council as Planning Authority. These matters are as follows:
 - (a) details of the design, siting and external finishes of the proposed houses;
 - (b) details of the means of de-lination of the individual residential plots;
 - (c) the design and location of all boundary treatments including any walls or fences and hard landscaped areas;
 - (d) the means of drainage and surface water strategy and methodology for sewage disposal, including Sustainable Urban Drainage Systems (SUDS), all set out in a comprehensive Drainage Assessment, including ongoing maintenance details. Such SUDS shall be self-certified by a suitably qualified person;
 - (e) the landscaping and associated maintenance proposals for the site, including details of existing trees, hedgerows and other planting to be retained and any tree protection measures together with proposals for any new planting, specifying number, size and species of all trees and shrubs, a management implementation programme and proposals to replace any landscaping which fails in the first five years following planting; and
 - (f) details of the heat and power systems for the houses, which shall include low and/or zero carbon technologies to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met. For the avoidance of doubt, the houses proposed for the site shall be of traditional design and no more than one and a half storeys in height. All of the above shall be to the satisfaction of North Ayrshire Council as planning authority.

2. That prior to the commencement of any development works on the site: (i) intervisible passing places shall be provided and maintained thereafter on the road to the front of the site to the agreement and satisfaction of North Ayrshire Council as Planning Authority; (ii) the existing surfaced turning point at the northwest of the site shall be retained and shall not be included within the curtilage of any house. Full details of the matters above shall be submitted with the subsequent application(s) for detailed planning permission, all to the satisfaction of North Ayrshire Council as planning authority.
3. That the Right of Way (ref:SCU123/1) which runs through the site hereby approved shall not be stopped up or diverted in any way until a Path Diversion Order has been made and confirmed under S.208 of the Town and Country Planning (Scotland) Act.
4. That the recommendations contained in Section 5.3 of the Preliminary Ecological Appraisal, prepared by Starling Learning and submitted with the application hereby approved, shall be implemented in full prior to the commencement of any development works on the site and that the details, conclusions and recommendations of a further otter survey shall be submitted with the subsequent planning application(s) for detailed planning permission, all to the satisfaction of North Ayrshire Council as planning authority.
5. That details of site sections and the finished floor levels of the proposed houses shall be submitted with the subsequent application(s) for detailed planning permission to ensure that no development takes place below 4.22m AOD, all to the satisfaction of North Ayrshire Council as planning authority.

5. Urgent Items

The Chair agreed that the following item be considered as a matter of urgency.

5.1 Planning Performance Framework

Submitted report by the Executive Director (Place) on the feedback from the Scottish Government on the 2021/22 Planning Performance Framework. The Performance Markers report was set out at Appendix 1 to the report.

The Chief Planning Officer advised the Planning Committee that the Scottish Government (SG) PPF audit assessed the 15 performance markers through the RAG rating and provided commentary on each marker. Following representation to the Government, North Ayrshire Council had given a green rating for all of the relevant markers. The Committee commended Officers for their continued best practice in delivering the Planning Service for the benefit of the communities and developers of North Ayrshire.

Noted.

The meeting ended at 4.35 p.m.