
NORTH AYRSHIRE COUNCIL

24 June 2020

Planning Committee

Locality	North Coast and Cumbraes
Reference	20/00222/PP
Application Registered	12th March 2020
Decision Due	12th May 2020
Ward	Dalry And West Kilbride

Recommendation Approved subject to Conditions

Location Site To South East Of 41 Tarbert Avenue West Kilbride
Ayrshire**Applicant** Mr Robert MacMillan**Proposal** Application to vary planning permission in principle
18/00393/PPPM to remove condition 7

1. Description

Planning permission is sought to delete Condition No. 7 of a planning permission in principle (Ref. 18/00393/PPPM) for a residential development on a site to the Southeast of 41 Tarbert Avenue, Largs.

The permission is subject to six other conditions which set out the requirements that any subsequent applications for the matters specified in the conditions should meet. Should this application be granted, a new permission would be issued with the remaining six conditions.

Condition 7 of 18/00393/PPPM currently reads as follows:

7. That for the avoidance of doubt, the proposal shall be limited to the development of affordable housing as well as associated infrastructure. In this instance affordable housing is defined by North Ayrshire Council, as Planning Authority, as being for social rent by a Registered Social Landlord.

The reason for Condition 7 was to ensure affordable housing was delivered on the site and that the proposal complies with Policy RES4 of the 2014 adopted Local Development Plan ("the 2014 LDP").

This application seeks to delete this condition. The 2014 Local Development Plan has been replaced by the current Local Development Plan adopted in November 2019 ("the LDP"). Policy RES4 no longer applies and the LDP has no specific policy requiring the provision of affordable housing.

The application site is identified by the LDP as part of the General Urban Area of West Kilbride. It is also identified in the LDP as being a housing development site with an indicative capacity of 64 dwellings. It is considered that the relevant policies of the LDP are Strategic Policy 1: The Towns and Villages Objective Strategic and Policy 1: New Homes and Maintaining an Effective Housing Land Supply.

The Scottish Government's Planning Circular 4/1998 sets out their policy on the use of planning conditions.

2. Consultations and Representations

The application was subject to statutory neighbour notification procedures and advertised in the local press. There have been two objections received which can be summarised as follows;

1. The permission should never have been granted in the first place.

Response: The principle of residential development on this site has been established by the current permission. It is noted that the site is within the settlement of West Kilbride, as defined by the current LDP, where the principle of residential development is acceptable. The principle of residential development is not for determination as part of this application. The determining factor is whether the current condition accords with Scottish Government advice and whether an amended permission would accord with that advice and the Council's Local Development Plan.

2. The proposal to access the houses via Highthorne Crescent is impractical and dangerous. There are parking problems and vulnerable users of that road.

Response: The details of any access to the site are not for consideration as part of this application. The access would have to be determined through future planning applications.

3. Analysis

The planning permission in principle (ref.18/00393/PPPM) established that residential development of the site was acceptable subject to 7 conditions. The determination for this application is whether the development would be acceptable without Condition 7.

Strategic Policy 1 of the LDP states that proposals for the right new homes in the right places will be supported. Policy 1 of the LDP states that the Council will support and promote the principle of residential development in the effective housing supply sites identified in the LDP.

Planning Circular 4/1998 states that planning conditions should only be imposed where they are; necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects.

Condition 7 effectively restricts the type of residential development which could take place on the site i.e. it can only be for social rent by a Registered Social Landlord, which was appropriate at the time the permission was granted, because the site had been allocated in the 2014 LDP as a site for affordable housing development. A specific policy of the 2014 LDP (RES4) required provision of affordable housing. Therefore Condition 7 was considered to be necessary, relevant to the development and reasonable in the context of the 2014 LDP.

The site now forms part of the General Urban Area of West Kilbride and as such suitable in principle for uses appropriate in such an area, without the previous restriction for housing for social rent by a Registered Social Landlord. The LDP also lists the site as a potential housing development site. The principle of the site for housing is confirmed by the LDP.

The LDP no longer has any specific requirement for affordable housing. The current LDP was prepared in the context of the affordable housing which had been built in the last 5 years and is scheduled to be built, which includes the Council's own house building program. This approach to housing was endorsed by the Scottish Government through its examination of the current LDP in 2019.

Planning permission in principle for this site, without an affordable housing restriction, is considered to accord with Strategic Policy 1 and Policy 1 of the LDP. The development of any tenure of housing on the site would support housing in the right locations and promote the principle of development on an effective housing supply site. It should be noted that removing the restriction would not mean affordable houses would not be built. It would open the site to potential development of a range of tenures. The details of any development could be controlled through the same other six conditions attached to the previous permission (ref. 18/00393/PPPM).

Condition 7 as it currently stands in the context of the LDP is considered to be unreasonable. Given the current LDP policies it is no longer considered to be necessary or relevant. Removing Condition 7, therefore, would also accord with the Scottish Government's advice set out in Circular 4/1998.

The proposal accords with the relevant policies of the LDP and as there are no material considerations to the contrary, it is recommended that planning permission in principle be granted subject to the six conditions referred to in this report.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That prior to the submission of the first application for the approval of matters specified in conditions (MSC), a programme of archaeological works in accordance with a written scheme of investigation, the results of which shall inform the layout of the detailed

masterplan required by Condition 3, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the developer shall ensure that the approved 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 North Ayrshire Council as Planning Authority.

Reason

In recognition of the potential archaeological interest of the site and to meet the requirements of the West of Scotland Archaeology Service

Condition

2. That prior to the submission of the first application for the approval of matters specified in conditions (MSC), a water and drainage assessment shall be submitted for the approval of North Ayrshire Council as Planning Authority which actions all relevant recommendations of the Flood Risk Assessment. The water and drainage assessment shall demonstrate that:

- (i) the development will not be at high medium or low likelihood of flooding or will increase the likelihood of flooding elsewhere;
- (ii) run-off to the site from adjacent steeply sloping ground shall be intercepted and appropriately attenuated and treated before discharging to the water environment or to a suitable piped system;
- (iii) in the event that surface water will discharge to the existing culvert at the site's Western edge, there would be no notable negative impact in terms of flood risk and water quality; and,
- (iv) full details of the parties responsible for the maintenance of all drainage assets are provided in a suitably detailed plan and that all associated maintenance operations are identified on an accompanying schedule;

The water and drainage assessment shall detail a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's SuDS Manual (C753) (published 11th November 2015), the results of which shall inform the layout of the detailed masterplan required by Condition 3. Thereafter, the scheme as may be approved shall be implemented during the course of development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To ensure the submission of an appropriate water and drainage assessment and to meet the requirements of SEPA and NAC Flooding.

Condition

3. Prior to the commencement of development on site, a further 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) the layout of the site, including all roads, footways, shared paths, car parking areas, and open spaces;
- (b) the siting, design and external appearance of all building(s) and any other structures, including plans and elevations showing their dimensions and type and colour of external materials;

- (c) a detailed flood risk assessment, including cross-sections of existing and proposed ground levels, details of under-building and finished floor levels in relation to a fixed datum, preferably ordnance datum, and detailing how flood issues are addressed.
- (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 maintenance. Such SUDS shall be self-certified by a suitably qualified person;
- (e) the means of access to the site including an updated Transport Strategy;
- (f) the design and location of all boundary treatments including walls and fences;
- (g) the landscaping and associated maintenance proposals for the site, including details of existing trees, hedgerows and other planting to be retained and tree protection measures together with proposals for new planting specifying number, size and species of all trees and shrubs and a woodland management implementation programme;
- (h) details of the phasing of development (covering all relevant aspects of development detailed in (a) above);
- (i) a design and access statement with the design issues addressed in the formulation of the proposals, set out in line with the relevant supplementary design guidance approved by North Ayrshire Council.

The layout of the site shall take into account archaeological investigations, the detailed SuDS scheme, water and drainage assessments required by conditions 1 and 2 respectively, and shall take into account the principles of the Scottish Government's 'Designing Streets' and 'Designing Places' policy documents to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In order that these matters can be considered in detail.

Condition

4. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of 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 North Ayrshire Council as Planning Authority.

Reason

To ensure that any contamination is appropriately remediated.

Condition

5. That prior to the commencement of the development hereby approved, the developer shall submit a Construction Management Strategy Plan for the written approval of North Ayrshire Council as Planning Authority to include details of routing arrangements for construction traffic. For the avoidance of doubt, the Strategy shall be designed to reduce potential adverse impacts on road safety and to minimise potential disruption and congestion for road users, pedestrians and local residents. Thereafter, the development shall progress in accordance with the Construction Management Strategy Plan as may be approved unless North Ayrshire Council as Planning Authority gives written consent to any variation.

Reason

In the interests of amenity, traffic and pedestrian safety.

Condition

6. The applicant must demonstrate that the increased road traffic, generated as a result of this development, shall not have a detrimental effect on local air quality or result in an increase in concentrations of atmospheric pollutants such that statutory Air Quality Objectives would be exceeded at any location of relevant public exposure.

Reason

In the interests of ensuring that air quality standards are achieved.

Russell McCutcheon
Executive Director (Place)

For further information please contact Mr Iain Davies on 01294 324320.

Appendix 1 – Location Plan

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