
NORTH AYRSHIRE COUNCIL

Planning Committee

Locality	North Coast and Cumbraes
Reference	19/00506/PP
Application Registered	4th July 2019
Decision Due	4th September 2019
Ward	North Coast And Cumbraes

Recommendation	Approved subject to Conditions
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Location	Site To East Of Castlepark Gardens Fairlie Largs Ayrshire
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Applicant	Dawn Homes Ltd
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Proposal	Application to vary Planning Condition number 4 of 18/00659/PP, to provide temporary shared-use path adjacent to plots 38, 39 & 46, in lieu of the permanent path proposed adjacent to plots 35, 36 & 37
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1. Description

Planning permission is sought to vary a condition attached to permission 18/00659/PP. That permission, which in itself was an amendment to permission 17/00584/PPM, allowed the construction of 97 houses, subject to conditions.

Condition 4 of 18/00659/PP currently reads as follows:

4. That for the avoidance of doubt the proposed shared use path to Castlepark Gardens should be completed prior to the completion of plots 35, 36 and 37, as outlined within approved plan AL(0) 114, or no later than 12 months from the original planning consent, that being the 20th September 2018.

The reason for the condition was to ensure permeability through the site.

The path was not completed prior to the 20th September 2018. The Planning Committee was advised of this at the meeting of 26th September 2018. However, the Committee

resolved not to take any action as a temporary path had been installed on the western side of the plots.

The developer has advised of the due commencement of the construction of plots where the temporary path is sited, including plot 36. In the interests of safety, the temporary path requires to be closed for the duration of the works. This application therefore seeks to re-route the temporary path through the southern end of the access road of Fairlie Primary School, retaining a safe connection whilst the development commences. The re-routed path would be removed when the proposed shared use path, which passes between plots 35, 36, and 37, is formed.

The application site lies within the settlement of Fairlie, as identified by the adopted Local Development Plan. It is considered that the relevant policy of the LDP is the General Policy.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

Relevant Development Plan Policies

General Policy GENERAL POLICY

(a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

(e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

(f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services,

facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

2. Consultations and Representations

The application was subject to statutory neighbour notification procedures. There have been two objections received which can be summarised as follows;

1. The path through the primary school has already been formed. The planning system allows large development companies to do what they like. Why should companies be allowed to change plans once development has commenced?

Response: The Planning Acts allow for the submission of planning applications for retrospective works. Such applications can be made by anyone. The carrying out of development without planning permission is not an offence.

2. The large wall behind the houses on Castlepark Gardens is an unacceptable height. This was not in the original development plans. This will affect property sales.

Response: The wall does not form part of this application. The wall forms part of planning permission 18/00659/PP and is approved under Condition 5 of that permission. If permission is granted to vary Condition 4, all other conditions will remain part of any permission. The effect of development on property sales is not a material planning consideration.

3. Analysis

The General Policy of the LDP states that the siting of development should have regard to the visual effects of the development on the surrounding area. Regard should be given to the impact on amenity of disturbance by reason of pedestrian traffic. Access on foot and by cycle should be an integral part of any significant development proposals.

The path would be approx. 2m wide and appear as a continuation of the pavement from Castlepark Gardens into the primary school grounds. The path would be contained within the development site and the school grounds. It would provide access for foot and cycle users between the completed houses to the north and the school and to the south. The path would run along side the northern boundary of the rear garden of No. 28 Castlepark Gardens for a distance of approx. 15m. The path is only sought for a temporary period and any amended condition could reflect this requirement. The current temporary path runs in proximity to the rear (east) gardens of properties on Castlepark Gardens.

Given the existing situation, the temporary nature of the path, and the desirability to retain permeability between the completed houses and the school and the rest of the village, it is considered that the proposal accords with the relevant criteria of the General Policy. It is therefore recommended that planning permission be granted subject to a variation of Condition 4.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That, within one month of the date of consent, the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority:

- i) Details of a scheme to intercept surface water runoff from the higher ground to the east and routing into the drainage system;
- ii) Details of a cut off drain along the western boundary of the application site;
- iii) Details of proposed watercourse crossings which ensure that crossings have a better or neutral effect on flood risk and do not result in the elevation of land within the functional floodplain;
- iv) Details of proposed landscaping and safety of the SuDs pond as well as a programme for its completion/operation;

- v) Maintenance of existing water channels which enter and are contained within the site; and
- vi) The proposed programme for the installation of those flooding measures contained within this condition, and those approved with the application, as well as details of maintenance and factoring.

Such details as may be approved shall be completed in compliance with the proposed programme of implementation, agreed under (vi) above, and maintained permanently thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To meet the requirements of SEPA and NAC Flooding.

Condition

2. That within one month of the date of consent, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme of hard and soft landscaping. The submitted scheme should include:

- i) details of proposed hard surfacing, including paths, roads, shared spaces, driveways and boundary treatments;
- ii) details of species and planting densities;
- iii) details of potential biodiversity, including habitat, improvements;
- iv) a programme of proposed implementation of the scheme; and,
- v) proposed maintenance programmes and factoring.

The soft landscaping details, which may be approved, shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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 North Ayrshire Council as Planning Authority gives written consent to any variation.

Reason

In the interest of the amenity of the area.

Condition

3. That, within one month of the date of approval full details of proposed tree protection measures for the development shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall comply with the principles and practices contained in "BS 5837:2012 - Trees in relation to design, demolition and construction - Recommendations." Detailed plans indicating tree protection fencing to be erected, an Arboricultural Impact Assessment and an Arboricultural Method Statement shall be submitted for written approval. For the avoidance of doubt:

- i) that there shall be no treeworks undertaken within the Tree Preservation Order area, unless otherwise agreed in writing;

ii) all tree protection measures to be erected shall be maintained in a satisfactory condition for the duration of all engineering and construction operations, until the completion of the development.

The development shall be implemented only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure the preservation of trees in compliance with Section 159(a) of the Town and Country Planning (Scotland) Act 1997.

Condition

4. The temporary footpath link through the primary school grounds, as shown on approved drawing 3494 AL(0)119, shall be removed and the primary school grounds restored to their former condition on the completion of the proposed shared use path to Castlepark Gardens located between plots 35, 36 and 37. The shared use path shall be completed prior to the occupation of the dwellings on plots 35, 36 or 37 or no later than 12 months from the date of this permission.

Reason

In the interests of ensuring permeability through the site

Condition

5. That prior to the commencement of development on plots 26, 27, 28, 29, 34, 35, 36, 45 and 46, as illustrated in approved plan AL(0)114, details of proposed finished ground levels and finished floor levels, retaining walls, any raised terracing, garden slopes, boundary treatments shall be submitted on plans and section drawings for the written approval of North Ayrshire Council as Planning Authority. Such details as may be approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority, unless otherwise agreed in writing.

Reason

To ensure privacy within and adequate screening of the site.

Condition

6. That the measures identified within the Ecological Assessment 2017 by Nigel Rudd, approved under the original planning permission 17/00584/PPM shall be fully implemented within phase 2, to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In the interests of protecting and improving ecology on the site.

Condition

7. That within one month of the date of approval details of the proposed equipped play area, which shall include the provision of at least 5 different types of play equipment, seating and unequipped play areas shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall include the proposed location of the play area, site levels, programme of installation, any means of enclosure, including gated points of access/exit, surface finish, litter bin provision, maintenance and management arrangements. Unless otherwise agreed in writing the approved play area facilities should be installed and operational no later than, or prior to, the occupation of plots 25 or 26 as

outlined within approved plan AL(0)114. The approved play area should be completed to the satisfaction of North Ayrshire Council as Planning Authority and maintained in perpetuity.

Reason

In order to ensure the development includes appropriate play facilities.

Condition

8. 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 meet the requirements of Environmental Health.

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan

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