
NORTH AYRSHIRE COUNCIL

23rd May 2018

Planning Committee

Locality	Garnock Valley
Reference	18/00328/PPM
Application Registered	17th April 2018
Decision Due	17th June 2018
Ward	Dalry And West Kilbride

Recommendation	Approved subject to Conditions
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Location	Blairland Farm Dalry Ayrshire KA24 4EJ
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Applicant	Blair Trust Co Per Saffery Champness & Persimmon Homes
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Proposal	Application under Section 42 of Town and Country Planning (Scotland) Act 1997 to vary conditions 1, 2, 3, 4 and 5 of planning permission in principle ref. 15/00103/PPPM
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1. Description

Planning permission is sought to vary 5 of the conditions attached to a Planning Permission in Principle (PPP) (ref. 15/00103/PPPM) for major housing development at Blairland Farm, Dalry.

The conditions relate to the timing of the submission of various technical studies in advance of considering the first matters specified in conditions (MSC) application for the development. The technical studies relate to historic coal workings, archaeology, sustainable drainage and flooding.

It is proposed that, instead of submitting the various technical studies in advance, they would be submitted at the same time as the first application for MSC. The applicants would provide the same information as previously required, although would base the development layout on a new masterplan and development brief rather than rely on the original 'concept' masterplan which was referred to in condition 5 of the PPP (ref. 15/00103/PPPM).

The application site relates to an area of agricultural land measuring some 23.5ha to the south and east of Dalry, bounded on the west by the Glasgow - Ayr railway; to the north by existing housing and Blair Road, and to the east and south by the line of the Dalry bypass, which is currently under construction.

The site is allocated for housing development in terms of Policy RES 2 of the adopted Local Development Plan. The PPP (ref. 15/00103/PPPM) remains extant.

2. Consultations and Representations

The application was subject to the statutory neighbour notification procedures which included an advertisement in a local newspaper as well as the notification of 95 neighbouring properties. Three letters of objection have been received, the points of which are summarised as follows:

1. The development would ruin what is left of the countryside beside the Blair housing estate, increase noise pollution in the area and the traffic levels on local roads. The development would also affect privacy for existing housing and result in a loss of light.

Response: The principle of housing development on the site has already been established through the adopted Local Development Plan and the planning permission granted in 2015. The current application seeks to amend the text of conditions relating to technical matters. See Analysis.

2. There are mining areas around the Blair which would be unsafe to build on.

Response: Noted. The planning conditions attached to the consent require further studies on historic coal mining. Such studies would still be required under the current proposal to amend the conditions.

3. There are not enough facilities in the Blair area to support additional houses.

Response: This matter is not relevant to the submitted application.

4. There are concerns raised about local primary school capacity.

Response: This matter is not relevant to the submitted application.

5. The proposal would infringe Human Rights due to the loss of peaceful enjoyment of a person's home, possessions and surroundings.

Response: As noted above, the site is already allocated for housing development and planning permission in principle has been granted. The current application does not provide the level of detail necessary for examining the potential impacts on any specific dwellinghouse, as it relates only to the planning conditions. The details of any proposal would follow at a later stage, which would be subject to neighbour notification at that time.

3. Analysis

Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with condition(s) subject to which a previous permission was granted. Section 42 of the Act stipulates that in this type of application the "Planning Authority shall consider only the question of the conditions subject to which permission should be granted."

The main determining issue in this case is whether the proposed modification would conflict with the relevant LDP policy and relevant criteria of the General policy.

Circular 4/1998 sets out the tests for planning conditions, as follows:

- Need for a Condition
- Relevance to Planning
- Relevance to the Development to be Permitted
- Ability to Enforce
- Precision
- Reasonableness

The proposed amendments to the conditions would comply with all of the above tests. Whilst all of the conditions are necessary, it is accepted that the timing of the submissions as a single package with the first application for MSC would be more reasonable.

The principle of major housing development on the site has been established through the allocation of the land in the adopted Local Development Plan (2014) and the subsequent grant of PPP (2015).

The proposed amendments to the conditions are technical in nature rather than substantive. At the time of the permission in principle being considered, there was not a developer attached to the site. As such, the applicant's planning consultant recommended an approach whereby various additional investigations and studies were undertaken in advance of the submission of an application for matters specified in conditions. The consultant had considered this approach to be good practice in the circumstances, taking account of other similar projects elsewhere in Scotland.

As there is now a development partner attached to the site, it has been proposed that the remaining investigations and studies, relating to historic coal mining, archaeology, flooding and sustainable drainage, are submitted concurrently with the first application for the approval of matters specified in conditions (MSC). It is also proposed that the masterplan and development brief would be drawn up and submitted with the first MSC application.

It is considered that the proposed approach would be acceptable on the grounds that the intent of the original conditions would be fulfilled. The main benefit to the applicants would be to streamline the planning process in the lead up to the development. The planning authority would continue to have the same opportunity to scrutinise all of the details associated with the proposal, which is the key issue in this case. The wider community would also have the same opportunity to make representations.

The delivery of major housing sites identified in the adopted LDP is a key priority for the Council, particularly in relation to the strategic policies of stimulating population growth and economic development. The proposed amendments to conditions 1 - 5 would therefore be wholly consistent with these aims.

It is recommended that planning permission is approved, which would include the proposed amendments as well as the previously attached conditions, which would enable further work on the development to proceed.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That, along with the first application for the approval of matters specified in conditions (MSC), further intrusive site investigations shall be undertaken to establish the location and condition of the recorded mine entries, the results of which shall inform the layout of the detailed masterplan required by Condition 5 and any subsequent remediation works which may be required. Confirmation shall be submitted in writing to North Ayrshire Council as Planning Authority and certified by a suitably qualified person that the required site investigations and any subsequent remedial works have been undertaken.

Reason

To meet the requirements of the Coal Authority.

Condition

2. That, along with 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 5, 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

To meet the requirements of the West of Scotland Archaeology Service.

Condition

3. That, along with the first application for the approval of matters specified in conditions (MSC), a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's "Sustainable Urban Drainage Systems Manual", (November 2015), the results of which shall inform the layout of the detailed masterplan required by Condition 5, shall be submitted for the written approval of North Ayrshire Council as Planning Authority. For the avoidance of doubt:

- there shall be no drainage connections to the trunk road drainage system;
- all foul water arising from the development must be collected and diverted away from operational railway land;
- all surface water arising from the development must be collected and discharged no closer than 10 metres from operational railway land; and,
- the SuDS scheme shall not be sited within 10 metres of railway infrastructure.

Thereafter, the scheme as may be approved shall be implemented during the course of development (taking phasing into account) and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To ensure that an appropriate SuDS strategy is prepared and implemented in accordance with up to date practice.

Condition

4. That, along with the first application for the approval of matters specified in conditions (MSC), a detailed flood risk assessment (FRA) which identifies the areas of the site at risk of flooding, taking into account the impact of the development on flood risk elsewhere, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the FRA as may be approved shall inform the layout of the detailed masterplan required by Condition 5. For the avoidance of any doubt, no built development or infrastructure should be located within the 1 in 200 year functional floodplain.

Reason

To meet the requirements of SEPA.

Condition

5. That, along with the first application for the approval of matters specified in conditions (MSC), a detailed masterplan for the site together with a development brief shall be submitted for the approval of North Ayrshire Council as Planning Authority. The detailed masterplan shall take into account the findings of the further intrusive site investigations, archaeological investigations, the detailed SuDS scheme and flood risk assessments required by conditions 1, 2, 3 and 4 respectively.

The detailed masterplan and development brief 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.

Thereafter, the details contained in the MSC application(s) shall accord with the detailed masterplan and development brief as may be approved, to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure a masterplan for the development in the interests of the proper planning of the area.

Condition

6. That application(s) for the approval of matters specified in conditions (MSC) shall include a scheme of mitigation measures for the design and construction of the houses to ensure that the noise levels at each plot shall not exceed the following:

- (a) Daytime external level, 50-55dB LAeq 16hrs (0700-2300);
- (b) Night time internal level, 30dB LAeq 8hrs (2300-0700); and
- (c) Night time internal level, 45dB LA Max (2300-0700).

Thereafter, the development shall be implemented only in accordance with the approved scheme of noise mitigation measures unless North Ayrshire Council as Planning Authority gives written consent to any variation.

Reason

In the interest of the amenity of the area.

Condition

7. That, prior to the commencement of the development hereby approved, the developer shall implement the recommendations contained within the "Preliminary Geo-Environmental Risk Assessment including Coal Mining Risk Assessment Report" dated March 2014 by Waterman (document reference EED14275-100-R-1-2-1-JLD-PERA) and also the recommendations contained within the "Preliminary Slag Analysis Report" by Waterman dated 7th July 2014 (document reference EED14275-100-C-001-SC-HW) in order to assess the likelihood of any ground contamination present at the site. Remediation proposals shall also be presented to North Ayrshire Council as Planning Authority in relation to any significant findings. All documentation shall meet BS 10175:2011 and shall be verified by a suitably qualified environmental consultant. Thereafter, the presence of any significant unsuspected contamination which becomes evident during the development of the site shall be reported to North Ayrshire Council and treated in accordance with a remediation scheme to be agreed in writing with North Ayrshire Council as Planning Authority. On completion of the proposed works, written verification, detailing what was done by way of any remediation, shall also be submitted to North Ayrshire Council as Planning Authority.

Reason

To ensure that any contamination is appropriately remediated.

Condition

8. 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

9. That prior to the commencement of the development hereby approved, the developer shall submit a Phasing Plan for the written approval of North Ayrshire Council as Planning Authority to include all land within the application site, and the development shall progress in accordance with the approved Phasing Plan unless North Ayrshire Council as Planning Authority gives written consent to any variation.

Reason

In the interests of the proper planning of the development.

Condition

10. That prior to the commencement of the development hereby approved, the developer shall submit details of the lighting within the site for the written approval of North Ayrshire Council as Planning Authority, after consultation with Transport Scotland TRBO.

Reason

To meet the requirements of Transport Scotland in the interests of trunk road safety.

Condition

11. That prior to the commencement of the development hereby approved, the developer shall submit details of the frontage landscaping treatment along the boundary with the A737 Dalry bypass trunk road for the written approval of North Ayrshire Council as Planning Authority, after consultation with Transport Scotland TRBO.

Reason

To meet the requirements of Transport Scotland in the interests of trunk road safety.

Condition

12. That, prior to the occupation of any dwellings within the development, a barrier/boundary feature of a type to be approved in writing by North Ayrshire Council as Planning Authority in consultation with Transport Scotland TRBO shall be erected and maintained along the proposed boundary of the site with the proposed A737 Dalry Bypass trunk road. In addition, the developer shall provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary, which shall include provision for access to facilitate future maintenance and renewal.

Reason

To meet the requirements of Transport Scotland and Network Rail in the interests of trunk road and railway safety.

Condition

13. That the recommendations of the "Bat Survey Report" (ref. EED14275-100-R-2-2-1) and "Preliminary Ecological Survey" (ref. EED14275-100_R_1_1_2_WE) by Waterman shall be taken into account during the MSC stage and implemented during the course of the development to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In the interests of the ecology of the area and to safeguard protected species.

Condition

14. That the development shall initially be limited to a maximum of 20 house completions per annum unless otherwise agreed in writing between the developer and North Ayrshire Council as Planning Authority. Thereafter, at 2 yearly intervals following the commencement of the development until its completion, a review of the build rate shall be undertaken by the developer to consider new house completions, new house sales and local primary school capacity. Each review shall propose the number of houses that can be completed during the following 2 year period (at a rate of not less than 20 units per annum), and shall be submitted for the consideration and written approval of North Ayrshire Council as Planning Authority.

Reason

To enable the development proceed on a phased basis in order to take into account local primary school capacity.

A handwritten signature in black ink, appearing to read 'Karen Yeomans', with a stylized, cursive script.

Karen Yeomans
Executive Director
Economy & Communities

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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