

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 15/01794/PPP

Planning Hierarchy: Major

Applicant: Avant Homes

Proposal: Site for the erection of residential development with associated access, infrastructure, open space, landscaping and miscellaneous works.

Site Address: Land north of Cardross Primary School, Barrs Road, Cardross

SUPPLEMENTARY REPORT NO.2

(A) INTRODUCTION

The purpose of this supplementary report is to advise Members of additional objections received, a proposed amendment to the conditions and an update on the proposed off-site road improvements and third party land procurement.

(B) ADDITIONAL REPRESENTATIONS

Since the production of the main Report of Handling further objections and representations have been sent to the local ward Members. A copy has been passed to officers for consideration. These are from:

Objections

Gordon S. Hendry C.Eng., M.I.C.E., Greyfriars, Darleith Road, Cardross G82 5EZ. (dated 19th August 2016).

Michael Crowe, 34 Kirkton road, Cardross G82 5PL (date 21/9/16).

Stewart Macdonald, Kirkton House, Darleith Road, Cardross G82 5EZ (dated 28/9/16).

Amanda Murray and Ed Wardle, Drumhead, Darleith Road, Cardross G82 5EZ (dated 15/8/16);

Ann Rankin, 22 Darleith Road, Cardross G82 5PG (dated 13/10/16).

Rachel Humphreys, 22 Darleith Road, Cardross G82 5PG (dated 13/10/16).

Representations

Andrea Miller, email only, no address supplied (dated 20/9/16)

Jackie Baillie MSP on behalf of Mr Ian Fleming, 1 Kilmahew Avenue, Cardross (dated 8/12/16).

The points of objection relate to access and parking, the scale of the development, impact on the local school, demands on local infrastructure, impact on the setting of the Chapel of St. Mayhew's, an A listed building, impacts on nesting birds and the presence of Japanese Knotweed on the site. All of these issues have been addressed in the main Report of Handling with the exception of the following:

Impact of the development on the setting of the listed building.

Comment: The application site does not lie adjacent to St. Mayhew's and there is an intervening field and good natural screening between the two sites. In these circumstances it is considered that the erection of houses is very unlikely to impact on the setting of this listed building. Further consideration of this issue will be given at the detailed stage.

Development would adversely affect nesting birds.

Comment: In order to address this issue, it is recommended that the following additional note to the applicant is added to the decision notice should Members be minded to approve the application:

"In order to meet obligations under the Wildlife and Countryside Act 1981 (as amended in Scotland) and to protect any breeding birds on the site, any vegetation removal should be undertaken outside the bird nesting season (March – August). If vegetation removal is planned during the bird nesting season a suitably qualified ecologist should inspect the area for the presence of nests up to a maximum of one day prior to removal. If an active nest is discovered vegetation cannot be removed and must be left in situ until the young have fledged. Useful advice can be found in 'Dealing with Construction and Birds - Guidance' Scottish Natural Heritage (2016)"

There is Japanese Knotweed on the site.

Comment: In order to address this issue, it is recommended that the following additional note to the applicant is added to the decision notice should Members be minded to approve the application:

"Japanese Knotweed has been reported on or near this site. It is a highly invasive weed that is capable of structural damage. Disturbance will cause it to spread and its movement is controlled by legislation. Under the Wildlife and Countryside Act 1981(as amended in Scotland) it is illegal to cause it to spread in the wild. You are strongly advised to survey the site for the presence of Japanese Knotweed at an early stage and before any site clearance work and, if found, to formulate plans to control or eradicated it. Please note that Japanese Knotweed can be far more extensive than the visible parts on the surface and that the underground parts of the plants may extend laterally up to 7 metres beyond this."

These details do not change the recommendation contained within the main Report of Handling.

(C) LAND PROCUREMENT AND OFF SITE ROAD IMPROVEMENTS

Following a meeting with the applicant, agent and council officers it was agreed that the applicant would submit further information on the third party land procurement issue and supply drawings illustrating that the off-site road improvements are achievable, either within

the existing public road boundary or the land identified to the west of Darleith Road and between Mill Road and the site entrance.

Condition no.4 is proposed in order to ensure that these improvement works must have been implemented in advance of any construction works being commenced within the site. Condition number 4 states that:

“Unless otherwise agreed in writing by the planning authority in consultation with the Council’s Road Network Manager no development shall commence unless and until the following road improvements to Darleith Road have been provided to the satisfaction of the Planning Authority in consultation with the Road Network Manager:

- (i) The provision of a suitable traffic calming scheme (give and take priority) between Barr’s Terrace and Mill Road. This shall also include the provision of a minimum of 10 new off street car parking spaces;*
- (ii) The provision of a 5.0 metre carriageway with associated verges with a minimum width of 1.0 metres on each side between Mill Road and the proposed development site entrance;*
- (iii) The provision of a passing place immediately to the north of the proposed development site entrance in order to accommodate large vehicles passing in opposite directions;*
- (iv) The provision of street lighting to the north of the new access to the development, the exact location to be agreed in consultation with the Council’s Road Network Manager;*
- (v) The existing lighting between Mill Road and the existing 30 mph speed restriction limit shall be upgraded.*

Reason: In the interests of road safety and to ensure a safe connection from the A814 to the site, suitable traffic calming measures, compensatory parking and a passing place for larger vehicles are required to be implemented before construction work commences on site.

This condition was drafted prior to the full details of the topographical survey and the detailed road alignment improvements being submitted. The agent has advised in a letter dated 28th November 2016 that Avant Homes have undertaken the following actions to ascertain whether the land required for the off-site road improvements is available:

- i) Avant have submitted an offer to the National Trust for Scotland (NTS) to purchase the land required on the western side of Darleith Road to create the new parking spaces. NTS have confirmed they are considering the offer. It is contended that it can be assumed that NTS have demonstrated a willingness to enter into discussions regarding the sale of the land on the basis that they have not declined the possibility of the sale being progressed. It is advised that this is as far as this element can be taken until Avant receive a response from NTS in relation to the offer put forward, which is being pursued.
- ii) Avant have also spoken with the owners of both the ground and upper floors of Greyfriars, Darleith Road. Discussions involved an onsite meeting between Mrs Keenan and Mr and Mrs Hendry, Andrew Trigger (Avant Homes) and Keith McGillivray (SIAS Transport Consultants) on Thursday 3rd November 2016 to discuss the mitigation options which have been agreed between the Council’s roads engineers and Avant Homes. It is advised that during discussions both Mrs Keenan (upper floor) and Mr and Mrs Hendry (ground floor) indicated, in principle, that they would be willing to discuss using their land to facilitate road alterations, but considered that such discussions would be premature until such time that planning permission in principle had been granted.

It is contended by the agent that the applicant has demonstrated that there is a realistic prospect of obtaining control of all necessary land required to deliver the access strategy. However, the owners of Greyfriars will not enter into such discussions until such time that the current application has been approved by the Council.

Detailed plans of the required off-site road improvements have now been submitted along with a schematic drawing to assist with the understanding of how the traffic would negotiate the priority give and take proposal. These relate to the improvements required on Darleith Road from Barr's Terrace to Mill Road and from Mill Road to the access to the site. They also include the provision of a layby to the north of the site access.

The provision of additional detail regarding intended roads improvements following discussions between the applicant's roads consultant and the Council's roads engineers is helpful. Whether future negotiations between parties over access to third party land are ultimately successful or not, cannot be a material planning consideration. Nonetheless, the indication, following discussion with landowners, that there is willingness in principle to make land required for such improvements available to the applicants, provides reassurance to Members that the granting of permission with a suspensive roads condition would be a legitimate course of action in these circumstances, as there is a realistic prospect that a permission on this basis could prove capable of implementation.

(D) APPLICANTS COMMENTS ON PROPOSED CONDITIONS

A further e-mail dated 16/8/16 from the applicant has advised that *"in advance of the meeting and in light of your preparation of an addendum report, my client has raised a couple of concerns regarding the wording of a couple of conditions:*

Condition 4: the need for the full Darleith Road mitigation measures causes Avant Homes some concerns regarding the timing of the works and would ask for consideration of an alternative wording which would require the submission of a timetable for the implementation of the works as agreed with the Council?

Comment: In the interests of road safety it is considered that these road improvements are required in advance of construction works being commenced. The wording of the condition does, however, contain some flexibility for minor amendment which would require to be agreed with the Planning Service in consultation with the Road Network Manager.

Condition 4(ii): I suspect that the wording suggested in this element of the condition needs to be altered in light of the 'agreed' plan (attached) i.e. the current wording requires 5m carriageway with 1m verges on each side between Mill Road and the development entrance – if we aren't providing it on the whole length (as agreed with the roads engineer) I assume it would be reasonable for this part to be re-worded accordingly?

Comment: Following the submission of detailed plans of the off-site road improvements which include a traffic calmed give and take scheme with the facility for vehicles to pass, it is recommended that this section of the condition be changed to refer to the detailed engineering plan submitted.

Condition 5: is there the possibility that this can be applied to the consent as an advisory note rather than a condition to allow flexibility if a Traffic Regulation Order is rejected?"

Comment: It is recommended that this condition remains as detailed on the original Report on Handling. It should however be noted that the wording of the condition allows for flexibility should there be procedural issues with the revision of this traffic order.

(E) PROPOSED AMENDMENT TO CONDITION No.3

Condition 3 on the original Report on Handling contains a typographical error. Section c) contains an incomplete sentence which currently reads:

c) Establish the timing of the provision of the affordable homes relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development;

This should read:

c) Establish the timing of the provision of the affordable homes relative to the phasing of the development, which shall ensure that works on the last 25% of ***those approved dwellings that are not affordable homes are not commenced until the affordable homes have been completed for occupation;***

If Members are minded to approve this application it is recommended that this error be corrected.

(F) CONCLUSION:

The further representations detailed above do not materially affect the Department's original recommendation of approval subject to the conditions detailed on the original Report of Handling, however, it is considered that the inclusion of two further notes to the applicant relating to Japanese knotweed and nesting birds are appropriate, in order to remind the applicant of their responsibilities with regard to these issues. It is also that conditions 3 and 4 should be amended as noted below.

The additional details submitted by the applicant in respect of the road improvements are in general considered to be acceptable. These documents provide more detail and support for the original recommendation that planning permission in principle should be granted.

(G) RECOMMENDATION:

It is recommended that Members note the contents of this report and grant planning permission in principle with the amendment to conditions 3 and 4 and the inclusion of two further notes to the applicant as noted below.

Condition 3

Substitute section c) with

"c) Establish the timing of the provision of the affordable homes relative to the phasing of the development, which shall ensure that works on the last 25% of those approved dwellings that are not affordable homes are not commenced until the affordable homes have been completed for occupation;"

Condition 4:

"Unless otherwise agreed in writing by the planning authority in consultation with the Council's Road Network Manager no development shall commence unless and until the following road improvements to Darleith Road have been provided to the satisfaction of the Planning Authority in consultation with the Road Network Manager:

(i) The provision of a suitable traffic calming scheme (give and take priority) between Barr's Terrace and Mill Road. This shall also include the provision of a minimum of 10 new off street car parking spaces, as shown on plan TIAVCAR2_SK003

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- (ii) Road improvement between Mill Road and the proposed development site entrance as identified on plan TIAVCAR2_SK002 B
- (iii) The provision of a passing place immediately to the north of the proposed development site entrance in order to accommodate large vehicles passing in opposite directions;
- (iv) The provision of street lighting to the north of the new access to the development, the exact location to be agreed in consultation with the Council's Road Network Manager;
- (v) the existing lighting between Mill Road and the existing 30 mph speed restriction limit shall be upgraded.

Reason: In the interests of road safety and to ensure a safe connection from the A814 to the site, suitable traffic calming measures, compensatory parking and a passing place for larger vehicles are required to be implemented before construction work commences on site.”

Notes to applicant:

“In order to meet obligations under wildlife legislation and to protect any breeding birds on the site, any vegetation removal should be undertaken outside the bird nesting season (March – August). If vegetation removal is planned during the bird nesting season a suitably qualified ecologist should inspect the area for the presence of nests up to a maximum of one day prior to removal. If an active nest is discovered vegetation cannot be removed and must be left in situ until the young have fledged.”

“Japanese Knotweed has been reported on or near this site. It is a highly invasive weed that is capable of structural damage. Disturbance will cause it to spread and its movement is controlled by legislation. Under the Wildlife and Countryside Act 1981 it is illegal to cause it to spread in the wild. You are strongly advised to survey the site for the presence of Japanese Knotweed at an early stage and before any site clearance work and, if found, to formulate plans to control or eradicate it. Please note that Japanese Knotweed can be far more extensive than the visible parts on the surface and that the underground parts of the plants may extend laterally up to 7 metres beyond this.”

Author of Report: Sandra Davies

Date: 16/01/2017

Reviewing Officer: Richard Kerr

Date: 17/01/2017

Angus Gilmour
Head of Planning & Regulatory Services