

**Argyll and Bute Council**  
**Development and Infrastructure Services**

**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**

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**Reference No:** 16/02218/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr Frank Phipps

**Proposal:** Erection of 9 dwellinghouses, installation of sewage treatment plant and formation of vehicle access

**Site Address:** Land North of West Shore Cottage, Fort Road, Kilcreggan

### **SUPPLEMENTARY REPORT NO. 1**

#### **1.0 INTRODUCTION**

The purpose of this report is to update Members on a delay in completing approval of this application following the determination of PPSL Committee on 17<sup>th</sup> January 2017 to grant detailed planning permission subject to conditions and reasons, and satisfactory conclusion of a s75 Planning Agreement to secure offsite road improvements and affordable housing provision. The report also seeks to appraise Members of a material change to the circumstances of the development site's locality since their previous consideration of this matter and sets out proposals for amendment of planning conditions and the proposed s75 Agreement to address these revised circumstances for Members' consideration and determination.

#### **2.0 DETAIL**

Following the PPSL committee meeting in January 2017 the Council's Legal Department began processing the Section 75 Agreement with the applicant's lawyer on the basis of Members' decision. However, the agent on behalf of the applicant indicated that, after further consideration, the cost of the road improvements (estimated to be £250,000) are such that they cannot be provided prior to the occupation of the first house and has argued that some of the new houses would need to be built and sold to secure the finance needed to provide the road upgrades. Simultaneously, the applicant has also engaged in negotiation with the relevant third party landowners to secure their agreement to implementation of the necessary road improvements on land within their control, or agreement to purchase the necessary land. Officers have allowed the applicant some scope to explore these options however it has taken some time to try and resolve these matters.

The applicant has indicated in recent discussions with officers that they have now negotiated an acceptable position with third party ownership interests. However, they have been unable to provide sufficient detail, in the absence of a fully specified and costed submission for Road Construction Consent, to quantify the extent of development which would be required in advance of offsite road improvement works to guarantee the financial viability of the development.

The applicant has however highlighted that during this period of ongoing discussion with officers there has been a material change in the circumstances in the locality of the development site following the unimplemented expiry of planning permission in principle (ref. 13/00567/PPP) for four dwellinghouses taking access elsewhere from Fort Road. This previous permission did not include any requirement for offsite road improvements but its traffic generation capacity had been factored into the Roads Service's previous consultation to the current application which advised in October 2016 that Fort Road was at capacity and would require to be upgraded to accommodate any further development. It is therefore suggested that this change in circumstances would indicate that Fort Road currently has capacity to accommodate four further dwellings in advance of previously specified junction/road improvements being necessary.

On this basis the applicant has contended that the expiry of permission in principle ref. 13/000567/PPP on 8<sup>th</sup> August 2017 has created capacity for four additional dwellinghouses on Fort Road prior to road improvements being necessary, and accordingly have proposed that the current application be delivered on a phased basis to take advantage of this change in circumstance. The applicant's submission on 3<sup>rd</sup> September 2019 sets out an intention to implement the development in two phases – the first phase shall be of four dwellinghouses (plots 1-4); the second phase of five dwellinghouses would be preceded by submission of Road Construction Consent details and lodging of a bond to secure delivery of the necessary offsite road improvements.

### **3.0 CONSULTATION RESPONSES**

The Council's Roads Service has reviewed the applicant's submission of 3<sup>rd</sup> September 2019 and confirmed (04.09.19) that they would be supportive of the proposed phasing of the development and advised that no road improvements are required for a first phase comprising of four dwellinghouses. It is confirmed that full details of the required offsite road and junction improvements and provision of a Road Bond to cover the value of these works should be secured in advance of phase 2 commencing and a requirement imposed for completion of road improvement works be prior to first occupancy of the fifth house within the development, or two years from commencement of works on phase 2, whichever is the earliest.

There has been no change to the specification of essential road improvements namely the realignment of the junction, upgrading of first section of Fort Road to "Rockfield", and widening of an existing culvert necessary to create additional capacity for development on Fort Road beyond the first four units. In recent discussions with the Agent for the application Roads Officers have sought to revisit the previously agreed specification to provide a remote footpath between the development site and the improved section of the public road. Concerns have been raised in relation to the expected construction standard and maintenance of this proposed footpath to an acceptable standard in the future. Roads Officers have advised in their updated consultation response that they are now of the view that securing the provision of additional passing places at 100m intervals along the section of Fort Road from "Hazelwood" to the development site would be of greater benefit in securing vehicular and pedestrian safety commensurate to the scale of the development currently proposed as an alternative to a remote footpath. The provision of new passing places within the road verge would require land which is understood to be in the applicant's control; Roads Officers have confirmed that such works will also require the benefit of Road Construction Consent and accordingly advised that the timing of this element should be aligned with junction realignment/road widening works to allow the applicant scope to address this within a single submission for RCC.

### **4.0 PROPOSED HEADS OF TERMS OF THE SECTION 75 AGREEMENT**

An agreement under s75 of the Town and Country Planning (Scotland) Act is necessary to secure the proposed offsite road improvements considered to be necessary in road

safety terms in order to accommodate the increased traffic volumes that development beyond the first phase would generate. In addition, the adopted Local Development Plan, under policies LDP 8 and SG LDP HOU 1, requires that on any site with more than 8 residential units, 25% of them should be affordable housing. The developer is required to secure agreement from any third party landowners necessary for elements of the offsite road improvements and to fund the following works:

### **Junction improvements and footway provision**

- i. The provision of a 5.5 metre carriageway between Rosneath Road (B833) and the entrance to the house known as “Rockfield”. This shall include a 2 metre footway on the south side linking to the medical centre and grass verges on the north side.
- ii. The existing water course culvert located under Fort Road serving the Kilcreggan burn shall be increased in length to accommodate the proposed road widening works.
- iii. The existing street lighting shall be extended to the eastern limits of the proposed road widening improvements.
- iv. On Fort Road between the development site and the house known as “Rockfield” (termination of the proposed road widening works) passing places shall be provided adjacent to the existing single track public road at a maximum of 100m spacing.

Full details of these required road improvements on Fort Road shall be submitted to the Council's Road Network Manager for Road Construction Consent, and a Road Bond appropriate to the cost of the approved works lodged in advance of phase 2 of the development being commenced.

In addition appropriate provision will be made to secure that

1. The road improvement works shall be completed prior to the first occupation of the fifth dwellinghouse within the development, or within a period of two years from the commencement of development works on site relating to phase 2, whichever is the earliest.
2. That any other owners of land required to implement the specified road improvements will be party to the Section 75 Agreement.

### **Affordable Housing**

Provision of 2 off-site affordable residential units by means of a commuted sum of approximately £24,000 per affordable unit payable to the Council's Strategic Housing Fund after the completion of 1 mainstream house.

### **Reason for Refusal in the event that the S75 Agreement is not concluded within a period of 3 months.**

### **Road Improvements**

The existing public road (Fort Road) serving the new development has been assessed as only having capacity to serve a further four dwellinghouses. Therefore, the proposed development of nine dwellinghouses necessitates that road improvements are carried out. The necessary improvements include upgrading of the existing public road (Fort Road) at its junction with the B833 (Rosneath Road), the widening of the road to 5.5m, the provision of a 2.0m footpath between this junction and the access road to “Rockfield”, the widening

of the existing piped culvert under Fort Road at the eastern boundary of the “Haven” Fort Road, and the provision of passing places at 100m maximum intervals between the limit of the 5.5m wide road and the development site. These offsite measures cannot be secured by planning conditions and therefore a legal agreement is required. In the absence of such an agreement vehicular and pedestrian safety on the approach road to the site would be compromised by the traffic generated by the overall scale of the development proposed, contrary to the requirements of Policies LDP TRAN 4 and LDP TRAN 5 of the adopted Argyll and Bute Local Development Plan 2015.

### **Affordable Housing**

This development relates to the provision of more than 8 residential units and is therefore subject to Policies LDP 8 and SG LDP HOU 1 of the adopted Argyll and Bute Local Development Plan 2015. These policies require that residential developments of 8 units or more shall be required to contribute 25% of the total number of units as affordable housing. In the absence of an appropriate legal agreement, the development of 9 residential units, as proposed, would not provide for the affordability component required by and would be contrary to the requirements of the Council’s commitment within the adopted Local Development Plan to assist in the supply of affordable housing pursuant to the advice given by the Scottish Government in Scottish Planning Policy (SPP 2014).

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## **5.0 RECOMMENDATION:**

It is recommended that Members agree the amended Heads of Terms of the Section 75 Agreement and grant planning permission subject to the satisfactory conclusion of the Section 75 Agreement, and subject to the amended conditions and reasons attached to this report. In the event that the Section 75 Agreement is not concluded within 3 months, it is recommended that planning be refused for the reasons given in this report.

### **Fergus Murray Head of Development and Economic Growth**

Author of Report:	Howard Young	02/09/19
Contact Point:	Peter Bain	04/09/19

**AMENDED CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. (16/02218/PP)**

1. The development shall be implemented in accordance with the details specified on the application form dated 9 August 2016 and the approved drawing reference numbers P(LP)001, P(SP)001, A.005H, A.005, A.006H, A.007H, A.007 and D(AP)001 A unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

2. The development shall be implemented in accordance with the approved phasing scheme detailed on drawing no. P(SP)001 Rev. B (submitted 03.09.19) unless an amendment to the agreed sequence/timing of development is subsequently agreed in writing by the Planning Authority.

*Reason: To ensure development is implemented on a progressive basis having regard to infrastructure and servicing requirements.*

3. No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided to the Planning Authority for approval before commencement of development.

*Reason: To ensure that the development is adequately served by a public water supply.*

4. No development shall commence until samples of materials to be used in the construction of the dwellinghouse hereby approved have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority

*Reason: In order to integrate the development into its surroundings.*

5. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
- iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.*

6. No development shall commence until full details of the proposed private sewage treatment plant to serve the development have been submitted to and approved in writing by the Planning Authority. The information submitted shall include details of the proposed outfall soakaway and a regime for the on-going maintenance of the private treatment plant. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

*Reason: To ensure that an adequate means of foul drainage is available to serve the development and to ensure that there is no discharge of contaminated or polluted drainage to ground or surface waters.*

7. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, the provision of a Sustainable Urban Drainage System (SuDS) and shall include details of how it will be maintained. Suds should be designed in accordance with CIRIA C753 and Sewers for Scotland 3<sup>rd</sup> Edition and include details of design calculations, method statement for construction, maintenance regime and ground investigation. The approved surface water drainage system shall be completed and brought into use prior to the development hereby approved being completed or brought into use.

*Reason: To ensure that an acceptable scheme of surface water drainage is implemented*

8. No development shall be commenced until a method statement for an archaeological watching brief has been submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service. The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site. Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

*Reason: In order to protect archaeological resources.*

9. No development shall be commenced on site until such time as an ecological survey of the Kilcreggan Woodlands and Raised Beach Local Nature Conservation Site has been carried out by a qualified ecologist to determine its current biodiversity status in relation to the LNCS designation and any other biodiversity interest, and submitted to and agreed in writing by the Planning Authority. The survey shall identify measures to maintain and enhance the flora and fauna of the area including a timescale for the implementation of any of the measures to be agreed with the Council.

*Reason: To maintain and enhance the range of species and character of Kilcreggan Woodlands and Raised Beach Local Nature Conservation Site.*

10. No development shall commence on site until the following information has been submitted and agreed in writing with the Council:

- details of how it is proposed to maintain Core Path C499 during the construction phase of operations and after completion of development;

- details of how it is proposed to maintain the wider path network namely paths 15/22 and 15/86 which traverse the site during the construction phase of operations and after completion of development.

*Reason: To ensure that Core Path C499 is maintained and improved.*

11. No development shall commence on site until the following information has been submitted and agreed in writing with the Council:

- details of how Core Path C499, within the applicant's control, will be improved and maintained. Thereafter, the approved details shall be implemented prior to the development hereby approved being completed or brought into use unless otherwise agreed in writing with the Planning Authority.

*Reason: To ensure that Core Path C499 is maintained and improved.*

12. No development shall commence on phase 2 of the development until details of the method of construction of the private access serving the four dwellings including gradients and finishes shall be submitted to and agreed in writing by the Planning Authority.

*Reason: In the interests of road safety.*

13. At the junction of the proposed private access serving the four dwellings and the public road (Fort Road) a visibility sightline 2.4 x 25 x 1.05 metres shall be provided and maintained in perpetuity.

*Reason: In the interests of road safety.*

14. The provision for car parking within the site shall be in accordance with the Council's Local Development Plan supplementary guidance SG LDP TRAN 6 Vehicle Parking Provision.

*Reason: In the interests of road safety.*

### **Notes to Applicant:**

This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.

In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

The proposed road improvements to the existing public road (Fort Road) would require the submission of an application for a roads construction consent. After subsequent approval a financial security road bond will be required to be lodged before any works commence on site.

It is noted that should there be any future requirement to bring the proposed private access road up to adoptable standard the developer would be required to include a 2 metre service strip on both sides of the road, a vehicle turning head for a commercial vehicle at the end of the proposed road and a hard standing area for the desludging vehicle would be required.

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.

Prior to any alterations or diversion of the paths within the application site the applicant should contact the Council's Access Officer from the Core Paths Team to receive written approval for their proposals.