

**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:** 18/00422/PP

**Planning Hierarchy:** Local Application

**Applicant:** Link Group Ltd

**Proposal:** Application under Section 75A (2): Discharge of planning obligation relative to planning permission reference 11/02248/PP.

**Site Address:** Land North Of Dunstaffnage Mains Farm, Dunbeg

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**DECISION ROUTE**

**(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997**

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

Discharge of Section 75 Planning Obligation relative to planning permission reference 11/02248/PP

**(ii) Other specified operations**

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**(B) RECOMMENDATION:**

That the Section 75 Obligation in respect of Phase 1 be discharged due to the provision of the required formal play area under the terms of condition 13 of Phase 3 (permission 18/00375/PP).

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**(C) HISTORY:**

11/02522/MIN - Borrow working to be used in association with new housing development on Land North of Dunstaffnage Mains Farm, Dunbeg, Argyll & Bute – application approved 12th April 2012.

11/02248/PP - Erection of 50 dwellings (comprising 14 houses and 36 flats). Approved 22.8.12. Section 75 Agreement in respect of provision of formal play area.

In summary the Section 75 agreement requires the provision of a formal play area for Phase 1 within five years of the date of commencement of the development or a bond to the value of not less than £40,000 pounds to be able to be used by the Planning Authority to provide the formal play area.

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**(D) CONSULTATIONS: No**

Members are requested to note that Amenity Services have been consulted in respect of the discharge of condition 13 of 18/00375/PP (which relates to the provision of play equipment, including Phase 1 and Phase 2) to ensure that the scale and type of play equipment proposed is to required standards.

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**(E) PUBLICITY: N/A**

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**(F) REPRESENTATIONS: No**

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) Environmental Statement: No**
  - (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: No**
  - (iii) A design or design/access statement: No**
  
  - (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: No**
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**(H) PLANNING OBLIGATIONS**

- (i) Is a Section 75 agreement required: No**

The current application seeks to discharge the requirements of the current Section 75 in its entirety for the reasons set out in this report.

Members are requested to note that should the recommendation of this report be approved it will be necessary for a Memorandum of Instruction to be sent to Legal Services to instruct them to undertake necessary steps to remove the S75 from the title of the land.

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- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**
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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

**(i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Local Development Plan adopted March 2015

LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG LDP PG 1 – Planning Gain

SG LDP HOU3 – Housing Green Space

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

- Planning Permission 18/00375/PP and its current role in providing formal play areas for the Phase 1 (and Phase 2 Developments) under condition 13 of that permission.
- Circular 1/2010 Planning Agreements

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No**

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): No**

However Members are requested to note that extensive discussions about co-ordinating and providing suitable play areas for Phase 1 and Phase 2 has been undertaken as part of designing the Phase 3 development under planning permission ( 18/00375/PP).

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**(M) Has a sustainability check list been submitted: N/A**

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**(N) Does the Council have an interest in the site: No**

Although the Council has no legal interest in the land, Members are requested to note that Strategic Housing Investment Programme (SHIP) payments are being provided by the Council as part of a joint package for funding the provision of the Phase 3 development of

300 houses, some of which are to be constructed on this land formerly identified as a play area for Phase 1.

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**(O) Requirement for a hearing (PAN41 or other): No**

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**(P) Assessment and summary of determining issues and material considerations**

The primary planning objective in this instance is to ensure that the necessary play area and appropriate play equipment for Phase 1 ( and Phase 2) of the original Dunbeg Social Housing developments are provided in accordance with the requirements of SG LDP HOU3 which requires that 6 sqm of formal play area be provided per dwellinghouse.

Phases 1 and 2 of the Dunbeg development, comprising 75 dwellings have been completed for a number of years. No formal play areas have, as yet, been provided for these developments.

This matter is also subject to planning conditions for the respective developments and the applicants have also submitted two separate Section 42 applications to remove the conditions associated with the provision of play areas for Phases 1 and 2 (Ref:18/00376/PP & 18/0377/PP).

Should members agree to the recommendation of this report to discharge and remove the Section 75 agreement for Phase 1 and secure the play provision as part of discharging condition 13 of permission 18/00375/PP, it is the intention of Officers to deal with these two discharge of condition applications as delegated decisions.

A Section 75 agreement was entered into requiring either the provision of play equipment or the payment of funds of not less than £40,000 to the Planning Authority if this was not provided for Phase 1 under permission 11/02248/PP within five years of the commencement of the development.

It has been understood, and agreed by officers, since the initial Masterplan submissions for Phase 3 that it was appropriate to amalgamate the, as yet unmet, play provision for Phases 1 and 2 with the development of the larger phase 3 proposals and as a result provide a coherent overall layout and new play facilities for all of the existing and future residents as part of this wider and more ambitious housing development.

The applicants have been developing their play strategy for the whole site in consultation with local schools and this has now reached the stage where they have worked up detailed designs in order to meet the requirements of SG LDP HOU3 to provide play areas for Phases 1 and 2 as well as the new phase 3. Details of the proposed play areas are under discussion with amenity services as part of discharging condition 13 of Permission 18/00375/PP. The detailed design of the play areas to serve Phases 1, 2 and 3 at Dunbeg has reached the stage that Officers are now reassured that in terms of location, scale, and quality of provision, that the new play areas for Phases 1 and 2 will be brought forward under condition 13 18/00375/PP in an acceptable manner and in accordance with required standards. Therefore the Section 75 control is no longer considered to be required to secure the necessary play areas.

Members are therefore requested to endorse the recommendation of this report that the Section 75 Obligation in respect of Phase 1 be discharged due to the provision of the

required formal play area under the terms of condition 13 of Phase 3 (permission 18/00375/PP).

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

The applicants have been developing their play strategy for the whole site in consultation with local schools and this has now reached the stage where they have worked up detailed designs in order to meet the requirements of SG LDP HOU3 to provide play areas for Phases 1 and 2 as well as the new phase 3. Details of the proposed play areas are under discussion with amenity services as part of discharging condition 13 of Permission 18/00375/PP. The detailed design of the play areas to serve Phases 1, 2 and 3 at Dunbeg has reached the stage that Officers are now reassured that in terms of location, scale, and quality of provision, that the new play areas for Phases 1 and 2 will be brought forward under condition 13 of that permission in an acceptable manner. Therefore the current Section 75 is no longer considered to be required to secure the necessary play areas.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

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**(T) Need for notification to Scottish Ministers or Historic Scotland:** No

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**Author of Report:** David Moore

**Date:** 4.8.20

**Reviewing Officer:** Sandra Davies

**Date:** 4.8.20

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