

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: 23/00145/PP
Planning Hierarchy: Local application
Applicant: CALA Management Limited
Proposal: Variation of Condition 2 relative to planning permission in principle reference 18/01444/PP (PP-130-2071) - amendment to wording of Condition 2 in relation to finished floor levels.
Site Address: Land North of Cardross Primary School, Barrs Road, Cardross, Argyll and Bute.

DECISION ROUTE

- ☐ Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- ☒ Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Variation of Condition 2 of planning permission in principle reference 18/01444/PP (PP-130-2071) – in relation to finished floor levels of dwellings.

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended that conditional planning permission is GRANTED in accordance with Section 42 of the Town and Country Planning (Scotland) Act 1997 subject to the conditions and reasons detailed in this report.

(C) CONSULTATIONS:

Flood Risk Advisor (6th March 2023) – raise no objections to the proposed change in finished floor levels of the dwellings to 0.15m above surrounding ground level. Their reasons for this are included below:

Flood Risk Assessment- Fluvial Flooding- Flooding to the site and expected flow routes have been considered quantitatively. The FRA informs that given the standoff distance of the site from the Geilston Burn, the vertical separation between the site

and the channel and the overbank topography, out of bank flooding from the Burn is unlikely to impact the site. Flood waters are expected to exceed the channel on the right bank and due to the topography are then directed south away from the development. This is acceptable.

Flood Risk Assessment- Pluvial Flooding – Given the nearby pluvial flooding risk, the FRA report concludes that Finished Floor Levels should be set to at least 0.15m above ground level. Finished floor levels have been incorporated in the 'Preliminary Site Levels' plan and show that Finished Floor Levels are proposed to be 0.15m above ground level for all proposed houses. This is acceptable.

Sewer/ Culvert Blockage- Section 3.34 of the report informs that there is a 'Scottish water surface water sewer which flows in a westerly direction close to the southern site boundary before flowing south through Cardross Primary School.' Two manholes are located within the site boundary and are associated with this sewer system. Section 3.35 informs that the closest plot to these manholes is elevated 1.2m above existing ground levels. As such, a FFL of 0.15m above ground level at these plots is acceptable.

Drainage- The supplied micro-drainage calculations inform that for the 200 year + climate change event flooding is expected at manholes 5, 16 and 29. Review of the supply drainage layout and topographic information informs that property flooding is not expected should these manholes overtop.

Cardross Community Council (5th March 2023) – raise no concern regarding the height of foundations for the houses, however the Community Council wish to express concern about possible worsening of the current flooding situation within the village due to the addition of this development.

(D) HISTORY:

18/01444/PP – Removal of Conditions 4 and 5 and variation of condition 7 of planning permission in principle 15/01794/PPP (Site for the erection of residential development with associated access, infrastructure, open space, landscaping and miscellaneous works) in relation to roads arrangements. Application refused at planning Committee and subsequently granted by appeal on 15th July 2019 under reference: **PPA-130-2071**.

15/01794/PP – Planning Permission in Principle for 'Site for the erection of residential development with associated access, infrastructure, open space, landscaping and miscellaneous works. Granted subject to conditions 26/01/17.

14/02409/PAN – Proposal of Application Notice for the erection of residential development and landscaping.

(E) PUBLICITY:

LREG20 – Regulation 20 Advert Local Application – Expired 16th March 2023.

(F) REPRESENTATIONS:

(i) Representations received from:

At the time of writing, representations have been received from 22 respondents in relation to this planning application. A total of 19 respondents raise objection and 3 respondents provide general comments.

The names and addresses of those contributing to the application are contained within Appendix B, and full copies of the representations are published on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

- (ii) **Summary of issues raised-** The concerns and general comments raised are summarised within the various themes below:

Comments relating to Condition 2

- No objection to the proposed variation of Condition 2 with regard to finished floor levels.

Comments: Noted, see assessment.

Roads Comments

- Concern regarding the suitability of the access to the site from Darleith Road and Barrs Road and the traffic generation arising from the development;
- Darleith Road is narrow with no pavement beyond Mill Road and is used by many users including cyclists, horse riders, walkers, farm and forestry traffic;
- Safety concern due to no designated pavement for pedestrians on Darleith Road;
- Traffic generation will put a strain on the road network of the village and car parking spaces at the station;
- Safety concern of Darleith Road;
- Additional traffic generation will cause noise and air pollution;
- Concern regarding impact of traffic on the core path;
- Suitability of the road to have construction traffic in terms of weight of vehicles;
- Access via Barrs road is unsuitable for the additional traffic generation in respect of road safety;

Comment: This section 42 application is confined to the acceptability of the finished floor levels in relation to flood risk and therefore road safety impacts is not a material consideration in this instance.

School Capacity Comments

- Concern regarding the capacity of the school to accommodate the additional pupils arising from the development;
- Concern regarding capacity of nurseries.

Comment: This section 42 application is confined to the acceptability of the finished floor levels in relation to flood risk and therefore school capacity is not a material consideration in this instance.

Drainage and Flooding Comments

- Concern regarding the capacity of the existing drainage and sewerage infrastructure and its ability to cope with the additional dwellings;

- Development has potential to cause drainage problems in the immediate area including local flooding and sewerage issues;
- Development will only worsen the flooding problem in the village;
- Loss of natural drainage the field provides at present;
- Queries relating to the reasoning behind the proposed drainage scheme proposed;
- Concern regarding the maintenance responsibility of the proposed drainage ditch;
- Installation of proposed drainage will cause considerable periods of road closure causing significant disruptions to those using Darleith Road;
- Concern that proposed drainage will cause flooding impacts to the property Hillview.

Comment: These are not material planning considerations in the determination of this application. This application seeks to amend finished flood levels. Full analysis of flooding and drainage matters associated with the development would be dealt with under any subsequent Matters Specified in Condition application.

Procedural Matters

- No neighbour notification was received.

Comment: Neighbour notification procedures and Regulation 20 Advertisement procedures have been carried out correctly.

Other Comments

- Proposal would alter the character and fabric of Cardross, increasing the population by 10-20%;
- Concern regarding the environmental impact of building a large housing estate on green belt land;
- Concern regarding the carbon emissions associated with the building phase and carbon footprint of the village overall post development;
- Concern regarding the felling of established woodland without an impact assessment;
- Proposal will have a detrimental effect on the current villagers;
- Green space behind the village should be protected from development.

Comment: These are not material planning considerations in the determination of this application.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** ☐ Yes ☒ No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** ☐ Yes ☒ No
- (iii) **A Design or Design/Access statement:** ☐ Yes ☒ No

- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** ☒ Yes ☐ No

The application is supported by the following technical information:

- Drainage Strategy Report, Issue 1, 23rd November 2022
- Flood Risk Assessment, Issue 3, 1st December 2022
- Agent analysis against relevant NPF4 policies together with the submission of a Statement of Community Benefit and Cala Community Pledge document, 11th April 2023.

The Supporting Letter (27th January 2023) submitted by the agent to accompany the application, explains the following reasoning as to why the variation is sought:

“Through the design process it has become apparent that the levels currently required by condition 2 introduce several undesirable effects. These include making access to some properties difficult for those with disabilities due to the change in levels required (introducing conflict with The Disability Discrimination Act compliance). This means that level access to some properties is only possible using the rear access point, with rising ramped pathways running from the front to a raised rear patio for some properties.

In support of the forthcoming AMSC submissions, a new Flood Risk Assessment (2022 FA) and Drainage Strategy were prepared. [...] These updated assessments address information gaps present at the time of the 2015 FRA; which had originally resulted in the cautious wording of Condition 2.

Crucially, the 2022 FRS provides appropriate calculations and information to confirm the suitability of FFLs set at 150mm above ground level. The 2022 FRS further confirms that “development is not at risk of flooding from groundwater. However, in order to remove any residual risk of groundwater flooding it is proposed that the finished floor levels onsite are set at 150mm above finished ground levels.”

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: ☐ Yes ☒ No

- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** ☐ Yes ☒ No
-

- (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.**

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 12 – Zero Waste
NPF4 Policy 13 – Sustainable Transport
NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
NPF4 Policy 16 – Quality Homes
NPF4 Policy 21 – Play, Recreation and Sport
NPF4 Policy 22 – Flood Risk and Water Management
NPF4 Policy 25 – Community Wealth Building.

‘Argyll and Bute Local Development Plan’ Adopted March 2015

LDP STRAT 1 – Sustainable Development

Local Development Plan Schedules

‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ (Adopted March 2016 & December 2016)

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems
SG LDP SERV 2 – Incorporation of Natural Features / SuDS
SG LDP SERV 3 – Drainage Impact Assessment

Addressing Climate Change

SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework

- (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 3/2013.**

- [Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The reporters have written to Argyll and Bute Council regarding the Proposed Local Development Plan 2, which is currently at Examination. Due to the status of the revised draft National Planning Framework 4 the reporters are currently determining what, if any, further processes are required as a consequence. Although PLDP2 remains a material consideration it is now subject to this further assessment [against NPF4 policies](#). Therefore, it is considered appropriate **not** to attach significant weight to PLDP2 [policies](#) during this time, i.e. until the consequences of NPF4 [policies](#) for the PLDP2 have been assessed by the reporters and the Examination report is issued. [Specific sites in PLDP2 that have not received objections and are not being dealt with at the Examination may continue as strong material considerations, e.g. allocations and potential development areas.](#)

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

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

Further PAC is not required for S42 applications.

(M) Has a Sustainability Checklist been submitted: ☐ Yes ☒ No

(N) Does the Council have an interest in the site: ☐ Yes ☒ No

(O) Requirement for a pre-determination hearing: ☐ Yes ☒ No

The original application was subject to a local hearing in 2017. The matters raised by objectors for this application are mostly road related issues and other matters which are not material considerations as part of this s42 application to vary the finished floor levels of the dwellings. Given, this it is recommended that a discretionary local hearing would not add value to the planning process in this instance.

(P)(i) Key Constraints/Designations Affected by the Development:

- SEPA Flood Zones (Surface Water)
- Core Paths

(P)(ii) Soils

[Agricultural Land Classification:](#)

Class 3.2

[Peatland/Carbon Rich Soils Classification:](#)

☐ Class 1

☐ Class 2

☐ Class 3

Peat Depth Classification:

☒ N/A
N/A

Does the development relate to croft land? ☐ Yes ☒ No
Would the development restrict access to croft or better quality agricultural land? ☐ Yes ☒ No
Would the development result in fragmentation of croft / better quality agricultural land? ☐ Yes ☒ No

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland? ☐ Yes
☒ No

Does the proposal include any replacement or compensatory planting? ☐ Yes
☐ No details to be secured by condition
☒ Not applicable

(P)(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application ☐ Brownfield
☐ Brownfield Reclaimed
☒ Greenfield

ABC LDP 2015 Settlement Strategy
LDP DM 1 ☒ Main Town Settlement Area
☐ Key Rural Settlement Area
☐ Village/Minor Settlement Area
☐ Rural Opportunity Area
☐ Countryside Zone
☐ Very Sensitive Countryside Zone
☐ Greenbelt

ABC LDP 2015 Allocations/PDAs/AFAs etc: The site is allocated for housing development under allocation ref: H2002.

(P)(v) Summary assessment and summary of determining issues and material considerations

A Section 42 application is an application for a new planning permission for a development but with different conditions from those attached to a previous permission for that development. In determining such an application, the planning Authority can only consider the changes to the conditions on the previous permission. The principle of development is not under consideration and the original permission remains live.

Planning permission in principle was approved for this development following a Hearing on 26th January 2017. The site is identified as a housing allocation for 158 units within the adopted Local Development Plan, however, the applicant in the previous Planning Permission in Principle application, indicated that approximately 140 units were proposed. It is located to the north of the settlement of Cardross and is bounded by Darleith Road to the west and a private access to the east. This private access is a continuation of Barrs Road.

In this application, the applicant has applied to vary Condition 2 to alter the finished floor levels of the dwellings. The applicant has submitted supporting drainage and flooding reports to justify the required change to the finished floor levels.

It is considered that the proposal would accord fully with the policies of the development plan and there are no material considerations which would indicate otherwise. As there is a procedural requirement to re-issue the previous permission in its entirety, Officers have also considered whether this new grant of permission has material planning consequences for any other planning conditions. Officers are content that there are no material planning consequences for any other conditions and therefore only Condition 2 required to be amended in the new decision to be issued under this Section 42 application,

Taking account of the above, it is recommended that planning permission be approved subject to conditions. A full report is included in the Appendix of this report.

(Q) Is the proposal consistent with the Development Plan: ☒ Yes ☐ No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The primary matter under consideration is whether Condition 2 can be reworded as suggested but still protect the approved residential properties from potential ground water flood risk. The primary and defining consideration on whether this would be acceptable are the expert views of the Council's Flooding Advisor. The Advisor is content that from the information provided, the condition can be required as suggested, whilst still ensuring the houses will be protected from any potential flood risk. This is confirmed in their response dated 06.03.23. All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Local Development Plan and it is acceptable subject to the conditions in terms of all other applicable material considerations.

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

Not applicable.

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:
☐ Yes ☒ No

Author of Report: Stephanie Wade

Date: 29th April 2023

Reviewing Officer: Sandra Davies

Date: 1st May 2023

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. (23/00145/PP)

Standard Time Limit Condition (as defined by Regulation)

Standard Condition on Soil Management During Construction

Additional Conditions

1. Plans and particulars of the matters specified in conditions 2,3,6,7,8,9,11,12,13,15,16 and 17; below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended. Thereafter the development shall be completed wholly in accordance with the details contained within the approved plans and particulars.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. Pursuant to Condition 1 – unless otherwise approved in writing by the Planning Authority, no development shall commence in respect of any individual plot until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate proposed finished floor levels relative to an identifiable fixed datum located outwith the application site. These levels shall be at least 0.15 metres above finished ground levels. Thereafter, the development shall be implemented in accordance with the duly approved details which shall have regard to special needs access requirements established by policies SG LTP TRAN 3 and SG LDP HOU 2.

Reason: To ensure that the development has a layout and design which is compatible with its surroundings and in accordance with Local Development Plan policy.

3. Pursuant to Condition 1 – no development shall commence until a scheme for the provision of affordable housing that is in accordance with the provisions of the Council's Development Plan Policy and Supplementary Guidance on Affordable Housing has been submitted to and approved in writing by the Planning Authority. The scheme shall:
 - a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
 - b) Define those dwellings that are to be used as affordable homes;
 - 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;
 - d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers.

The development shall be implemented and occupied thereafter in accordance with the duly approved scheme for affordable housing.

Reason: To accord with the provisions of the development plan in respect of affordable housing provision.

4. Unless otherwise agreed in writing by the Planning Authority in consultation with the Road Network Manager, no development shall commence unless and until the following improvements to Darleith Road have been provided:
 - i) The provision of a suitable traffic calming scheme (give and take priority) and the provision of three new off-street car parking spaces between Barrs Terrace and

Mill Road. A drawing showing details of these provisions shall be submitted for prior written approval of the Planning Authority.

- ii) Road improvement between Mill Road and the proposed development site entrance as identified on plan TIAVcar2_SK002B
- 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) Upgrade of the existing lighting between Mill road and the existing 30 mph speed restriction limit.

Reason: To provide improvements, including suitable traffic calming measures, compensatory parking and a passing place for larger vehicles, in the interests of road safety and to ensure a safe connection from the A814 to the site.

- 5. Unless otherwise agreed in writing by the Planning Authority, in consultation with the Road Network Manager, no dwelling shall be occupied unless and until the existing 30 miles per hour speed restriction on Darleith Road has been extended and brought into effect to a location north of the Darleith Road access, the exact location to be agreed in consultation with the Road Network Manager.

Reason: In the interests of road safety.

- 6. Pursuant to Condition 1 – no development shall commence until the following plans and particulars have been submitted to and approved by the Planning Authority in consultation with the Road Network Manager. Thereafter, the schemes shall be carried out in accordance with the approved details. Such details shall incorporate:
 - i) On the A814 Main Road, Cardross, a scheme to enhance the gateway features in both directions at the entrances into Cardross village to be fully implemented in accordance with these details prior to occupation of the first dwelling house.
 - ii) On the A814 Main Road, Cardross, within the village envelope a scheme to enhance traffic calming to be fully implemented in accordance with these details prior to occupation of the first dwelling house.

Reason: In the interests of road safety.

- 7. Pursuant to Condition 1 – no development shall commence until full details of the internal road layout within the development have been submitted to and approved in writing by the Planning Authority. The development layout shall ensure that no more than 20 dwelling houses will be served from the east access, i.e. via Barrs Road. All other vehicular traffic will be required to access the development site from Darleith Road. The internal roads shall be constructed in accordance with the principles of Designing Streets.

Reason: In the interests of road safety and good place making.

- 8. Pursuant to Condition 1 – Car parking provision shall be provided in accordance with the Argyll and Bute Council supplementary guidance policy SG LDP TRAN 6. Parking provision shall be constructed and made available for use prior to the first occupation to the dwelling(s) to which it relates and shall be maintained thereafter for the parking of vehicles.

Reason: In the interests of road safety.

- 9. Pursuant to Condition 1 – no development or ground breaking works shall commence until an archaeological field evaluation has been undertaken and submitted to the Planning Authority for approval, the results of which shall inform as necessary the

layout of the development to be submitted for the purposes of the Approval of Matters Subject to Conditions.

This archaeological field evaluation shall be prepared by a suitably qualified person and shall consist of a trial trenching programme of a distributed sample of 8% of the full application area. The West of Scotland Archaeology Service shall be notified at least 14 days in advance of the evaluation in order to facilitate monitoring of the work evidence of which to be submitted along with the archaeological field evaluation as part of the Approval of Matters Specified in Conditions submission. If archaeological remains on the site are confirmed, proposals for their preservation shall also be included.

Reason: In order to protect archaeological resources.

10. For the avoidance of doubt the proposals hereby approved shall be served by public water and sewerage connections.

Reason: The proposal has been assessed on this basis and the introduction of private connections would represent a further material consideration in the determination of this planning application.

11. Pursuant to Condition 1 – no development shall commence until the following details have been submitted to and approved in writing by the Planning Authority:
 - i) Details of the proposed cut-off ditch (or similar) to be located along the northern border of the site along with calculations demonstrating that this proposed mitigation measure will not exacerbate flooding elsewhere;
 - ii) The existing flow pathway in the vicinity of the sewer line shall be maintained;
 - iii) A detailed drainage assessment and layout;
 - iv) Method Statement detailing surface water containment during construction.

Reason: In order to ensure appropriate mitigation for flood risk.

12. Pursuant to Condition 1 – full details of the proposed SUDs shall be submitted to and approved in writing by the planning authority. Thereafter the development shall commence in accordance with these details. These details shall include:
 - i) Full details of the proposed design and appearance of the SUDs facility to be designed in accordance with CIRIA C753;
 - ii) Detailed design calculations for this facility;
 - iii) Details of the proposed drainage of the SUDs facility;
 - iv) Details of the proposed maintenance regime and maintenance responsibilities for the SUDs facility.
 - v) Soil information to be provided if infiltration SUDs are proposed.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

13. Pursuant to Condition 1 – no development shall until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:
 - i) Existing and proposed ground levels in relation to an identified fixed datum;
 - ii) Existing landscaping features and vegetation to be retained;
 - iii) Location design and materials of proposed walls, fences and gates. This shall include details of a secure boundary between the application site and the disused quarry on the south west corner of the site;

- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/ shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.
- vi) The proposed landscape plan shall take account of the Design Recommendations (para.4.8) contained within the applicant's supporting Landscaping Report dated June 2015 undertaken by Ann Nevett.

In addition, in accordance with the requirements of NPF4 Policy 3b, a Biodiversity Statement shall be submitted which demonstrates how the proposal will conserve, restore and enhance biodiversity including nature networks so that they are in a demonstrably better state than without intervention. This should include details of future management and should be informed by best practice methods.

Reason: To assist with the integration of the proposal with its surroundings in the interests of amenity and to comply with Policy 3 of NPF 4.

14. No trees overhanging the site shall be lopped, topped, or felled other than in accordance with the details provided to satisfy the requirements of condition 13 above.

Reason: In order to protect the trees overhanging the site in the interests of amenity.

15. Pursuant to Condition 1 – no development shall commence until details for the provision and maintenance of proposed areas of communal open space and equipped play area(s) within the development have been submitted to and approved in writing by the Planning Authority. The details shall comprise:
 - i) A plan showing the location and extent of communal open space and equipped play areas;
 - ii) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
 - iii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
 - iv) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of development;
 - v) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects. The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

Reason: In order to secure provision of communal open space and equipped play areas within the development in accordance with the minimum standards set out in the Development Plan.

16. Pursuant to Condition 1 – no development shall commence until details for the arrangements for the storage, separation and collection of waste from the site, including provision for the safe pick-up by refuse collection vehicles, have been submitted to and approved in writing by the Planning Authority. Thereafter the duly approved provision shall be implemented prior to the first occupation of the dwellings which it is intended to serve.

Reason: In order to ensure that satisfactory arrangements have been made for dealing with waste on the site in accordance with Policy SG LDP SERV 5 (b).

17. Pursuant to Condition 1 – no development shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Planning Authority. The provisions of this plan shall be adhered to during the construction period unless any subsequent variation thereof is agreed in writing by the Planning Authority.

Reason: In order to ensure the minimisation of waste generated during construction in accordance with policy SG LDP SERV 5 (b).

NOTE TO APPLICANT

- This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority have been satisfied.
- Application(s) for Approval of Matters specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 within the time limits specified in Section 59 of the Act.
- Having regard to Regulation 12, application(s) for the Approval of Matters Specified in Conditions must be submitted within 3 years from the date of which Planning Permission in Principle was granted. The exception being where an earlier submission for the Approval of Matters Specified in Conditions was refused or dismissed on appeal, in which case only one further application in respect of all outstanding matters requiring further approval of the Planning Authority may be submitted within a period of 6 months from determination of the earlier application. Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the time periods summarised above will no longer be capable of being implemented within the terms of this permission.
- The development to which this planning permission in principle relates must commence no later than 2 years from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.
- In order to comply with Section 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.
- 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.
- Please see the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.
- Please see Scottish Water's consultation response dated 31/5/16.
- The consideration to reduce the 30mph speed restriction should be assessed in conjunction with Police Scotland and the Council's Roads Officer.
- An application for a Roads Construction Consent is required to be submitted and approved. Thereafter a financial security bond will require to be lodged with the Council's legal services section before any works commence on site.
- 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 plant may extend laterally up to 7 metres beyond this.
- Prior to the submission of an Approval of Matters Specified in Conditions application, the applicant is requested to contact the Council's Education Department in order to investigate the opportunity for the provision of a pedestrian footpath from the site directly into Cardross Primary School for the use of children attending the school.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/00145/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Introduction

- 1.1. A Section 42 application is an application for a new planning permission for a development but with different conditions from those attached to a previous permission for that development. This appraisal will consider whether, if planning permission is granted subject to the proposed amendments to the condition as imposed on planning permission PPA-130-2071, the proposal would remain in accordance with the development plan and if not whether other material considerations indicate otherwise. In determining such an application, the Planning Authority can only consider changes to the conditions on the previous permission. The principle of the development is not under consideration and the original planning permission remains live.

2. Location of Development

- 2.1. The application site is located on the northern edge of Cardross village and comprises a fairly level field, which is in use for grazing. It is bounded by Darleith Road to the west, and Barrs Road to the east, each of which provides access, directly or indirectly, to the principal road through Cardross, the A814. Cardross Primary School is located immediately to the south of the site.

3. Proposal

- 3.1. The original Planning Permission in Principle permission, granted permission for the erection of a residential housing development, together with its associated infrastructure on the land allocated under the LDP as ref: H20002 (Cardross- Kirkton Farm 1) (permission ref. 15/01794/PP). A subsequent Section 42 application (18/01444/PP) was submitted to vary three conditions relating to roads matters which was subsequently granted by Scottish Government upon appeal in July 2019 (ref.PPA-130-2071). This permission was subject to a series of planning conditions, of which, some of the information for those conditions was required to be considered further under any subsequent Approval of Matters Specified in Conditions applications.
- 3.2. In this instance, the applicant is seeking to vary one condition (Condition 2) which relates to the finished ground floor levels of the dwellinghouses to be erected on site. The applicant has advised a cautious approach was taken within the approved Planning Permission in Principle regarding the finished ground floor level and whilst the cautious approach was not unreasonable, the unintended consequence is that the levels included within the condition (300mm-600mm) are difficult to achieve whilst also being compliant with the Disability Discrimination Act (DDA) requirements.
- 3.3. The approved Condition 2 states:
- 3.3.1. “Pursuant to Condition 1 - no development shall commence in respect of any individual plot until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate proposed finished ground floor levels relative to an identifiable fixed datum located outwith the application site. These levels shall be at least 0.3 metres to 0.6 metres above finished ground

levels. Thereafter the development shall be implemented in accordance with the duly approved details which shall have regards to special needs access requirements established by policies SG LDP TRAN 3 and SG LDP HOU 2.

3.4. The applicant is proposing to amend the wording of Condition 2 to read as follows (amended words highlights in bold for ease of reference):

3.4.1. “Pursuant to Condition 1 – **unless otherwise approved in writing by the Planning Authority**, no development shall commence in respect of any individual plot until plans and particulars of the site layout, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate proposed finished floor levels relative to an identifiable fixed datum located outwith the application site. These levels shall be at **least 0.15 metres** above finished ground levels. Thereafter, the development shall be implemented in accordance with the duly approved details which shall have regard to special needs access requirements established by policies SG LTP TRAN 3 and SG LDP HOUS 2.”

4. Settlement Strategy

4.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material planning considerations indicate otherwise. The principle of development has been established under the original permission and consequently, it is not necessary to revisit whether or not it is compliant with the settlement strategy. This is an application to modify the requirements of the condition on an existing permission. In order to address the determining issues, the key considerations are therefore:

- 4.1.1. Compliance with the Development Plan and other planning policy
- 4.1.2. Modification of condition 2; and
- 4.1.3. Any other material considerations.

5. Compliance with National Policy

5.1. The Development Plan has changed since the determination of the original application. The Development Plan now comprises National Planning Framework 4 [NPF4], in addition to the adopted Argyll and Bute Council Local Development Plan 2015 [LDP] and all statutory and supplementary guidance. As approval of this application will grant a fresh planning permission, it is necessary to address the relevant policy framework for the application where the framework differs from that of the LDP, in addition to addressing the minor matters raised by the desire to change Condition 2.

5.2. Policies 9 and 16 Of NPF4 support development of greenfield sites where they are allocated for development within the LDP. The application site is allocated for housing development within the LDP under reference “H2002 Cardross- Kirkton Farm 1”. This allocated suggested a scale of 158 units with 25% affordable housing provision. In accordance with Policy 16(e) of NPF4, the scheme will provide a 25% affordable housing provision within the residential development. The scheme accords with NPF4 Policy 15 which looks to promote development schemes that allow for facilities and services to be reached by residents using sustainable means. The application site is within a 10-minute walk of the local facilities of Cardross and within a 15-minute walk of public transport links including a train station.

- 5.3. As the original application was for a planning permission in principle, the detailed aspects of design and layout of the scheme and their compliance with Policy 14 of NPF4 to ensure the development is consistent with the six qualities of successful place and Policy 21 (Play, Recreation and Sport) are to be considered under the subsequent application for Approval of Matters Specified in Condition. The indicative layout plan shows there is sufficient space to accommodate the development.
- 5.4. A Statement of Community Benefit has been provided as required by Policy 16 of NPF4. This document references that the development will provide additional housing to the community, including 25% affordable housing provision; road improvements to the local road network improving road safety; additional areas of communal open space and play facilities to be provided within the scheme which is accessible to the wider community; and implementation of the Cala Community Pledge which includes commitments for tree planting, community litter picking, and installation of defibrillators. The Community Pledge, which is submitted in response to Policy 25 Requirements to ensure development proposals contribute to local or regional community wealth building strategies, highlights that the applicant is committed to showcasing of local supply chains and services in the show homes on the site with an ambition to raise awareness of local businesses and produced to increase spending within communities. It is also highlighted that the applicant has an operational model to engage with the local supply chain in relation to construction activities, and tendering processes being open to local providers.
- 5.5. NPF4 Policies 1-3 apply to all development proposals. Significant weight will be given to the global climate and nature crisis. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.
- 5.6. Regarding Policy NPF4 Policy 2, it is noted that the proposal accords with the LDP Settlement Strategy which promotes sustainable levels of growth by steering significant development to the settlements. It is considered that the proposed development would be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted Local Development Plan.
- 5.7. An extended Phase 1 Habitat Survey supported the original application for planning permission in principle which confirmed that the proposal would not have any adverse ecological impacts. Full consideration of a landscaping scheme which will contribute to the conversation, restoration and enhancement of biodiversity as required by Policy 3 of NPF4 is sought under the Approval of Matters Specified in Condition [AMSC] application.
- 5.8. In accordance with NPF4 Policy 5, the site does not include prime agricultural land nor peatland and carbon rich soils. As the proposal involves ground breaking works, an additional planning condition, which now forms part of the Planning Authority's standard planning conditions, will be attached to any subsequent decision to ensure compliance with NPF4 Policy 5. This new standard condition looks to ensure prior agreement of soil management to ensure appropriate methods are used for soil storage during construction.
- 5.9. NPF4 Policy 7(o) requires developers to provide an evaluation of archaeological resource to inform impacts on non-designated historic environment assets, including where there is potential for non-designated archaeological remains. As the site lies in an area fairly rich in archaeological remains from the prehistoric and medieval periods and evaluation is therefore required. The original planning condition (Condition no.9) attached to the PPP permission is therefore still required to be attached to any subsequent decision.

- 5.10. Regarding waste matters, NPF4 Policy 12 aligns with the LDP requirements for medium to larger scale developments to provide details of the arrangements for storage, separation and collection of waste to be submitted, together with a site waste management plan. The existing planning conditions attached to the original PPP permission (Conditions no.7 and 16), is therefore still relevant and will be carried forward.
- 5.11. Regarding access and sustainable transport matters, NPF4 Policy 13 aligns with the LDP requirements for the submission of a Transport Assessment, which was provided with the original Planning Permission in Principle submission. The roads related conditions, in particular, conditions 4, 5 and 7, were subsequently reviewed at Appeal level and the roads related conditions attached to the appeal decision are therefore still relevant and will be carried forward.

6. Modification of Condition 2- Impact on Flooding

- 6.1. Policy LDP 10 seeks to ensure developments avoid areas subject to flood risk and further guidance is provided within SG LDP SERV 7. An updated Flood Risk Assessment [FRA] and Drainage Strategy have been submitted in support of this application for variation of condition. A topographic survey of the site included within the FRA informs that at the closest point, the Geilston Burn sits at an elevation circa 15m lower than that of the site. It is noted that the site lies close to but ultimately outside of all indicative limits of flooding as per the SEPA flood maps. The Council's Flood Risk Advisors have reviewed the submitted information and confirm that the change of finished floor levels of the dwellings to a minimum of 0.15m above surrounding ground level is considered acceptable with regards to flood mitigation measures.
- 6.2. The proposed amendment of Condition 2 is considered to accord with Policies SG LDP SERV 1, SG LDP SERV 2, SG LDP SERV 3, SG LDP SERV 7 and NPF4 Policy 22.

7. Modification of Condition 2 – Impact on Accessibility

- 7.1. The change in ground floor level to ensure that the proposal is compliant with the Disability Discrimination Act accords with Policy 16(c) of NPF4 which supports development proposals for new homes that improve affordability and accessible, adaptable and wheelchair accessible homes.

8. Other Considerations, including Public Representations

- 8.1. The change to the finished floor level of the dwellings would not result in any change to the conclusions reached on any other material planning considerations of the original scheme and no further assessments are required in respect of those, for this application. It is noted that a number of letters of concern have been received from local residents and the Community Council, however the issues raised within those responses are not material to the determination of this S.42 application. The matters of concern raised relate to the merits of the information to be submitted against the subsequent Approval of Matters Specified in Condition application. Whilst it is noted that matters relating to flooding in general have been raised by the Community Council and members of the public, the analysis for the purposes of this application under flooding and drainage relates solely to the acceptability of the change in finished floor levels and does not therefore provide a full analysis of the overall wider flooding matters and drainage scheme which will be reviewed as part of the subsequent AMSC application.

9. Conclusion

- 9.1. The proposed variation of Condition 2 would be acceptable. The lowering of the Finished Floor Levels to a minimum of 0.15m has been demonstrated to adequately safeguard the residential properties from potential groundwater flooding, whilst improving the Disability Discrimination Act compliance by way of accessibility issues. Officers have considered the new grant of permission against any new material considerations arising from the introduction of NPF4 and confirm that there are no material planning consequences for any other condition and therefore only Condition 2 required to be amended in the new decision notice to be issued under this Section 42 permission. It is considered that the proposal accords with the principles and policies contained within the Development Plan and the application is therefore recommended for approval subject to conditions.

COMMITTEE REPORT	
APPENDIX B – RELATIVE TO APPLICATION NUMBER:	23/00145/PP
LIST OF CONTRIBUTORS	

	Contributor Name	Contributor Address	Date response received
1	Alexandra Easton	10 Napier Avenue, Cardross G82 5LY	29.03.2023
2	Mrs Catherine Court	3 Fairway, Cardross, G82 5LP	28.03.2023
3	Charlotte Francoz	Hillview, Darleith Road, Cardross, G82 5EZ	07.03.2023
4	Connie Ross	67 Barrs Road, Cardross	27.02.2023
5	Dr Julie Lang	Ellismhor, Darleith Road, Cardross G82 5EZ	06.03.2023
6	Dr Gillian Hunter	13 Braid Drive, Cardross G82 5QD	22.03.2023
7	Erin Gregory	Middle Lodge Drumhead, Darleith Road, Cardross, Dumbarton, G82 5EZ	11.04.2023
8	Mr Gordon Hendry	No address given.	14.03.2023
9	Mr James Henson	13 Kilmahew Avenue, Cardross, G82 5NG	22.03.2023
10	Mrs Janet Peattie	17 Napier Avenue, Cardross G82 5LY	31.03.2023
11	Mr John Young	5 Kilmahew Court, Cardross G82 5NJ	31.03.2023
12	Mrs Katherine Cassell	Burnfoot Cottage, Peel Street, Cardross G82 5LD	03.04.2023
13	Mr Mark McGhee	32. Muirend Road, Cardross, G82 5LG	22.03.2023
14	Mrs Mhairi Terrace	Westlade North, Darleith Road, Cardross, G82 5PG	21.03.2023
15	Mr Michael Hutcheson	30 Barrs Road, Cardross, G82 5PW	22.03.2023
16	Mr Michael Veitch	3 Barrs Court, Cardross G82 5PP	06.03.2023

17	Mr Paul D Macfarlane	9 Mill Road, Cardross G82 5PQ	27.03.2023
18	Mr Paul Robb	10 Napier Avenue, Cardross G82 5LY	27.03.2023
19	Mr Peter McPherson	32 Barrs Road, Cardross G82 5PW	31.03.2023
20	Mr Robert Seaward	4 Barrs Court, Cardross G82 5PP	22.03.2023
21	Miss Sharon Goodwin	Rosemount, Peel Street, Cardross, Dumbarton, G82 5LD	12/04/2023
22	Mrs Stella Kinloch	Craigend, Cardross G82 5EP	22.03.2023