

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00887/PP

Planning Hierarchy: Local Application

Applicant: Osborne Interiors Ltd

Proposal: Erection of three dwellinghouses.

Site Address: Land between 19 to 37 Cumberland Avenue, Helensburgh

SUPPLEMENTARY REPORT NO.1

1.0 SUMMARY

Members will have received an e-mail from the applicants' agent, Tony Dance, dated 19 September 2011 regarding the above application. The key points are summarised and assessed below.

At the time of the Local Plan Inquiry (PLI), all three sites had total tree cover and that both the sites on Cumberland Avenue have had their trees removed with the consent of the Council.

Comment: Whilst it is true that at the time of the LPI, all three sites had total tree cover, the TPO on the current application site was revoked prior to the Reporters' findings being published. Moreover, the last planning application on this site, 06/00361/DET, was refused on the basis of no trees on site. The application site had its trees removed with the consent of the Council. However, on the site opposite only some of the trees, primarily Larch, were removed with Council's consent. The removal of other trees is currently subject of an enforcement investigation.

The report to Members indicates that the application site had been the subject of three previous planning refusals for residential development. A key material consideration in the 2002 and 2005 refusals was the presence of trees on the application site. In May 2006, Area Members considered application 06/00361/DET and were mindful to grant consent at that time. Members were advised that a grant of consent required the removal of the TPO on that site. Following a long drawn out process, Area Members in January 2008 were able to remove the application site from TPO 16/04.

Comment: The application site is not merely valuable because of the trees that were previously growing there. Even with the trees felled, its value as open space which contributes to the softening of the environment remains. The TPO on the current application site was revoked prior to the Reporters' findings being published. Moreover, the last planning application on this site, 06/00361/DET, was refused on the basis of no trees on site.

The Report to Members in the fourth paragraph makes reference to PAN 65 and notes, Planning Advice Note (PAN) 65 advises that all spaces, regardless of ownership and accessibility (i.e. public and private spaces) contribute to the amenity and character of an area. Further reference to PAN 65 at page 10, when instancing types of open space, PAN 65 lists private gardens or grounds and these are defined as areas of land normally enclosed and associated with a house or institution and reserved for private use. From PAN 65 the conclusions are that accessibility on to any open space is a not a requirement and that private gardens are also considered as open space. Thus the only loss of open space on the application site by definition from PAN 65 would be the actual footprint of the dwellings themselves.

Comment: This area of land is where the public have rights of responsible non motorised access under the Land Reform Scotland Act 2003. None of the claims made to date by the owners have demonstrated that any of the land is outwith the rights of access. Planning Advice Note (PAN) 65 advises that all spaces, regardless of ownership and accessibility (i.e. public and private spaces), contribute to the amenity and character of an area. PAN 65 also sets out how areas of open space should not be allowed to deteriorate through inadequate management, nor should poor maintenance regimes provide justification for their disposal for development. The proposal will neither retain nor enhance the existing function of the site. The area has value as a green space and buffer between housing and helps to soften the impact of and integrate existing development. Its replacement with dwellings, accesses, hardstanding, fences and other associated suburban development will clearly compromise its amenity value, will be visually intrusive, visually discordant, and will not maintain or enhance the character of the area.

During pre planning consultations and in addition to the 17% tree planting schedule, off site mitigation was offered in the form of the replacement of a Victorian bandstand at nearby Kidston Park.

Comment: As indicated in the report of handling, it is not considered that a case has been made with regard to the proposed mitigation.

The Report suggests that the application site functions as a wildlife corridor. This is not supported by the Local Biodiversity Officer.

Comment: The Local Biodiversity Officer has commented on the application and has highlighted the existing and potential value of the site in terms of biodiversity.

Paragraph 1 of these grounds notes that the application is considered contrary to parts B and D of Policy LP ENV 1 and Part B of Policy LP ENV 19 of the Argyll and Bute Local Plan. This ground is at odds with a meeting with Angus Gilmour on the 29th of August 2011 when he asked the Area Team Leader, if there were any other planning matters other than the provision of mitigation outstanding on the application site and received "No" as the answer. It was agreed at this meeting that the only outstanding issue in policy terms was the level of mitigation on offer.

Comment: This is incorrect as mitigation is not the only outstanding issue. As indicated in the report of handling, it is not considered that a case has been made with regard to the proposed mitigation. Moreover, detailed and specific policy reasons for refusal are set out in the report of handling.

2.0 RECOMMENDATION

The above comments do not alter the conclusion of the assessment in the original report and it is recommended that planning permission should be refused for the reasons set out in that report.

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Angus J Gilmour
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20 September 2011