

Stirling Council

Agenda Item No. 8

Planning & Regulation Panel

Date of Meeting: 3 August 2021

Not Exempt

Realignment Of The Access Road To The Housing Development Approved Under Planning Permission 19/00781/FUL At Land To South East Of Burn Green, Castlehill Loan, Kippen - Dawn Homes Ltd - 21/00076/FUL

Purpose & Summary

This application seeks permission for the realignment of the access road to the housing development approved under planning permission 19/00781/FUL on land to the south east of Burn Green, Castlehill Loan, Kippen.

The application is being reported at this Panel, as it has received more than five objections, including from the Community Council.

This report forms the Report of Handling for the planning application in compliance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Recommendations

Planning & Regulation Panel is asked to:

1. approve the application, subject to adding this approval to the S75 Legal Agreement that was agreed as part of approval 19/00781/FUL, and the conditions set out at Appendix 1 to this report.

Resource Implications

Not applicable.

Legal & Risk Implications

Not applicable.

1. Background

- 1.1. Not applicable.

2. Considerations

The Site

- 2.1 The application site is within the village of Kippen, which lies to the west of Stirling. The red line site primarily involves land which was subject to planning approval 19/00781/FUL, with minor red line adjustments to accommodate the proposed realignment. The land is a single track access surrounded by post and wire fencing with broken vegetation of self-seeded shrubs and trees along the boundaries.

The Proposal

- 2.2 The proposal is for minor realignment of the access road to the housing development approved under planning permission 19/00781/FUL. This realignment has become necessary to comply with the Roads Construction Consent. The access is to serve the thirty-one residential units granted through application 19/00781/FUL. That development is solely residential in nature, proposing a total of thirty one units.
- 2.3 Vehicular access continues to be proposed via a single access point off an extension of Castlehill Loan, which is in turn, is served off the B822.
- 2.4 The Adopted Local Development Plan October 2018 has allocated Burnside (ref H103) for housing.

Previous History

- 2.5 Planning history of particular relevance to the application site includes:
- 2.6 19/00781/FUL Approved: Development of 31No residential houses including all associated landscaping, roads and drainage infrastructure, May 2020.

Consultations

Roads Development Control:

- 2.7 No Objections: Roads have discussed the proposed alterations to the access road with the developer, through the Roads Construction Consent process. As part of that process detailed design drawings, including a swept path analysis have been submitted and found to be acceptable. There are no transport conditions that are required to be added to any approval.

Environmental Health:

- 2.8 No Objections: Any ground that was not included in the previous consultation (19/00781/FUL) which is to be incorporated under the new proposal, must be included within the Contaminated Land Investigation as stipulated under conditions 7-11 of planning consent 19/00781/FUL.

Bridge & Flood Maintenance:

- 2.9 No response.

Scottish Environment Protection Agency (East):

- 2.10 No response.

Scottish Natural Heritage:

- 2.11 No objection and no Comment.

Kippen Community Council:

- 2.12 Object to this application on the following grounds:

- 2.12.1 The proposed realigned road would form the single point of access and egress for the 31 new houses approved under Planning Permission ref. 19/00781/FUL however the Developer has not provided a detailed traffic management plan that addresses the impact of the increased traffic flow on the current level of congestion experienced on a daily basis adjacent to the Kippen Surgery on Castlehill Loan, where currently parking on both sides causes the road to become a single carriageway.
- 2.12.2 **Response:** This matter was addressed as part of application 19/00781/FUL. At that time, Stirling Council Transport Development considered the submitted Transport Statement to which no objections were raised. The statement provided evidence the increase in traffic, as a result of the development, will have no impact on the surrounding road network.
- 2.12.3 In addition to the above, there are specific concerns on the failure to address the impact of increased traffic flow on the road junctions that serve housing at Oakwood, Castlehill Loan, The Old Nursery and Burngreen, all of which are within 75 metres of the realigned access road.
- 2.12.4 **Response:** See above response.
- 2.12.5 Kippen Community Council do not share the Roads view regarding potential impact on the locality and note also, that the roads response was provided without a visit to the site to undertake an assessment of the proposals.
- 2.12.6 **Response:** No site visit was required for this application as the matter of traffic congestion and road safety was fully considered and concluded as part of application 19/00781/FUL now approved.
- 2.12.7 The area has a history of flooding and a detailed drainage and flood risk assessment on the impact of rainwater run-off from the fields on the west side of the realigned access road has not been provided.
- 2.12.8 **Response:** This matter was fully considered and concluded as part of application 19/00781/FUL now approved.
- 2.12.9 There is considerable local interest in the proposal and significant concerns that the above issues have not been addressed.

Representations

- 2.13 Four representations have been received all of which object to the proposals.
- 2.14 The issues raised in the objections can be summarised as follows:
- 2.15 Loss of vegetation, prior to approval being granted:
- 2.15.1 Trees and bushes have been removed from the site prior to approval being granted.
- 2.15.2 The applicants have failed to comply with condition 31 of approval 19/00781/FUL, which required the Planning Authority to agree tree protection measures and the extent of removal.
- 2.15.3 **Response:** It is accepted this was carried out in breach of the conditions. The applicants did not intend to remove the vegetation at this time and have put it down to an error. These proposals seek to remedy this by showing replacement planting, which will restore and enhance the biodiversity of the area.

- 2.16 Adverse impact on protected species:
 - 2.16.1 One of the trees removed is reported to be home to Bats.
 - 2.16.2 Loss of hedgerow is illegal during bird nesting season.
 - 2.16.3 **Response:** The ecological report submitted with the approved housing proposal did not note any features that would be of value to Bats. Although the survey area was restricted to that development site it did include a buffer that would have picked up the holly tree. These proposals seek to remedy this by showing replacement planting, which will restore and enhance the biodiversity of the area.
- 2.17 Raising concerns that 19/00781/FUL was approved:
 - 2.17.1 Stirling Council chose not to discuss that application with the Community Council.
 - 2.17.2 Approval was granted online in the middle of a pandemic.
 - 2.17.3 Since that approval it is highlighted there are errors, for example the roads authority citing a road that does not exist, gas cylinders that no longer form part of the approval.
 - 2.17.4 **Response:** The Community Council provided a response to the housing site approved, which was considered by the Panel.
- 2.18 Raising concerns regarding the operations:
 - 2.18.1 Use of a digger close to electric lines.
 - 2.18.2 There is no specific requirement for this realignment.
 - 2.18.3 **Response:** The new alignment is necessary to comply with roads standards.

Local Development Plan

- 2.19 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the Development Plan. The determination shall be made in accordance with the Plan unless material considerations indicate otherwise. The following provisions of the Development Plan are considered relevant to the consideration of this application
- 2.20 Primary Policy 1 Of the Adopted Stirling Councils Local Development Plan (Oct 2018): Place making, Policy 1.1 Of the Adopted Stirling Councils Local Development Plan (Oct 2018): Site Planning, Primary Policy 3 of the Adopted Stirling Councils Local Development Plan (Oct 2018): Provision of Infrastructure, Policy 3.1 Of the Adopted Stirling Council Local Development Plan (Oct 2018): Addressing the Travel Demands of New Development, Policy 7.1 Of the Adopted Stirling Council Local Development Plan (Oct 2018): Archaeology, Primary Policy 8 Of the Adopted Stirling Council Local Development Plan (Oct 2018): Conservation and Enhancement of Biodiversity, Policy 8.1 Of the Adopted Stirling Council Local Development Plan (Oct 2018): Biodiversity Duty:, Primary Policy 9: Of the Adopted Stirling Council Local Development Plan (Oct 2018): Managing Landscape Change, Policy 9.1 Of the Adopted Stirling Council Local Development Plan (Oct 2018): Protecting Special Landscapes and Policy 9.3 Of the Adopted Stirling Council Local Development Plan (Oct 2018):Landscaping and Planting in association with Development.

- 2.21 The site is to form access to an allocated housing site within the Stirling Local Development Plan 2018 (LDP) for residential use under H103. This site has planning approval for 31 housing units through approval 19/00781/FUL.

Other Planning Policy

- 2.22 None relevant.

Assessment

- 2.23 This application has been submitted in full and it is proposed to realign the access road to the housing development approved under planning permission 19/00781/FUL on land to the south east of Burn Green, Castlehill Loan, Kippen.
- 2.24 The drawings, information and reports submitted with the application have been considered in detail against the above policy framework and it is concluded that this application accords with the policy framework and can be supported for the following reasons (set out below).
- 2.25 **Principle of Development:** The principle of an access at this location is established through 19/000781/FUL and this application seeks minor realignment of the approved access arrangements.
- 2.26 **Landscape Impact:** In terms of the proposals impact on the landscape, in accordance with Primary Policy 1: Place making, Primary Policy 9: Managing Landscape Change and Policy 1.1: Site Planning of the Local Development Plan the applicants previously carried out and submitted an appraisal of the landscape and visual impact of the proposed development (19/00781/FUL). Whilst not a full Landscape Visual Impact Assessment, (not required by the Local Development Plan), the carrying out of such an assessment met with the thrust of the Overarching Policies set out above, as it allowed for a greater understanding of the landscape and visual context of the site and proposed development, and the potential impacts. The analysis carried out, and the conclusions reached within this report were generally agreed and this is not altered by these proposals.
- 2.27 It is accepted the visual impact of the proposal will continue to be insignificant, and that the development will be seen as a natural extension to the existing urban form. It is accepted that the type and scale of proposed infrastructure changes will not materially impact and that the development will still be seen as a natural extension to the existing urban form once complete and the necessary landscaping is in place. The proposed landscaping through condition has a role to play in ensuring an appropriate urban edge.
- 2.28 **Loss of Vegetation/Landscaping:** The loss of existing vegetation within this red line site is considered minor and does not alter the above assessment at 2.15. The proposed landscaping shown as part of these proposals has an important role in further insuring visual impact and providing a soft urban edge. The applicant has addressed this through the submissions and subject to further detail through the conditions it is considered that the proposed landscaping will adequately replace the vegetation lost, enhance biodiversity and mitigate any visual impact of the proposals, providing an attractive natural element to the streetscape, which counter balances the built development.

- 2.29 **Archaeology:** Turning to archaeology there is a risk of previously unrecorded objects and archaeological features surviving in the development area. The presence of such putative remains is insufficient reason to oppose the application. Therefore, if the development does proceed, in line with policy, it is recommended that in advance of construction an experienced and suitably qualified archaeological contractor undertake the a programme of archaeological works by way of mitigation regarding the loss of the site.
- 2.30 **Traffic and Transport:** The impact of the development on the operational efficiency and safety of the transport network is an important material consideration in the assessment of the application. As part of the assessment Stirling Council Roads were consulted on the development. This Service has offered no objections and no conditions. This application has been submitted to ensure the planning permission accurately reflects the road layout being approved as part of the Roads Construction Consent. Realignment of the access has been necessary as part of that process and the pavement approved on the western side has been removed. A more continuous pavement is being provided on the eastern side. The Transport Statement submitted as part of planning Approval 19/00781/FUL fully addressed the access at this location and provided evidence the increase in traffic as a result of the development will have no impact on the surrounding road network. At that time, Stirling Council Transport Development considered the submitted Transport Statement to which no objections were raised.
- 2.31 **Ecology:** Primary Policy 8 (Conservation and Enhancement of Biodiversity) of the adopted Local Development Plan states that the protection, conservation and enhancement of wildlife, its habits and other natural features in international designated sites will be supported in line with statutory requirements. Where adverse impacts on existing assets are unavoidable, the Development Plan will only support proposals where these impacts will be satisfactorily mitigated.
- 2.32 Surface water drainage from the site, for example run off from roads will be discharged via a Sustainable Drainage Scheme (SuDS), which also has to meet relevant requirements of SEPA in respect of water quality standards.
- 2.33 The proposed landscaping is to be designed and include planting that will enhance the biodiversity of the area in accordance with Policy 8.1, as well as replacing the vegetation lost.
- 2.34 **Impact on Protected Species:** The 19/00781/FUL application site and surrounding area was assessed for the presence of European and national (UK) protected species. This was assessed and considered by the Council's Biodiversity Officer who concluded no ecological concerns in relation to that proposal. The ecological report submitted with the approved housing proposal did not note any features that would be of value to Bats. Although the survey area was restricted to the development site it did include a buffer that would have picked up the holly tree the objectors have raised concerns about.
- 2.35 The applicants have since carried out a further survey of the housing site and surrounding area and bats have been observed roosting in a box approximately 150 metres from the main site, which indicates that bats are present in the area and likely to be foraging along vegetated boundaries of the site. The proposed landscaping will replace the vegetated boundary that has been lost.

- 2.36 **Impact on Otters:** Cuthbertson Burn within the approved housing site boundary was recently surveyed to assess the survey area's potential to support otter and to search for any field signs which would indicate use. The current proposed development site (this red line site) is located more than fifty metres from the edge of the watercourse and no intrusive groundworks or heavy engineering works, such as piling or blasting, are currently proposed.
- 2.37 **Impact on Badger Species:** Badgers and their Setts are protected from disturbance under Scottish law, specifically under the Protection of Badgers Act 1992. Badgers have a low sensitivity to development impacts as they have some ability to tolerate and adapt to changes in their territory. Whilst the survey has indicated that there is suitable habitat in the area for Badgers there is no requirement for Badger Protection, as part of this application.
- 2.38 **Impact on Ornithology:** There are no statutorily or locally designated sites related to ornithology within or adjacent to the boundary of the site. The assessment focuses on the impacts associated with the proposed development on bird species within the site and surrounding area. The main impacts on ornithology rises from individual tree loss and loss of grassland and hedgerow habitats during, and as a result of, construction. Development would also be brought closer to existing habitats to be retained, with the likely effects being that birds would be deterred from utilising these areas for breeding as previously. In addition, the assessment notes that disturbance of existing habitats is likely to result in many of the species leaving the site either permanently or temporarily. Creation of new and the enhancement of existing habitats must also be put in place.
- 2.39 Any works which require removal of any further vegetation along the southern and eastern boundaries should either wait until the end of the bird nesting season (August) or a nesting bird survey should be carried out within 48 hours prior to removal to determine if any nesting birds are present.
- 2.40 Overall, through the proposed mitigation and enhancement there will be no adverse impact on local ornithology and breeding birds from this development.

Conclusion:

- 2.41 For the reasons set out above the development is supported subject to the conditions set out at Appendix 1 to this report.

3. Implications

Equalities Impact

- 3.1 This application was assessed in terms of equality and human rights. Any impact has been identified in the Consideration/Assessment section of this report.

Fairer Scotland Duty

- 3.2 This section is not applicable.

Climate Change, Sustainability and Environmental Impact

- 3.3 An Environmental Impact Assessment is not required

Other Policy Implications

- 3.4 All relevant policies have been set out within Considerations of this report.

Consultations

3.5 As set out within Considerations of this report.

4. Background Papers

4.1 Planning Application file 21/00076/FUL. File can be viewed online at: [View Application](#)

4.2 List of determining plans:

Stirling Council Plan No.	Name	Ref on Plan
01	Location Plan	3444_P_AR_120/A
02A	Site Plan	3444_P_AR_220/B
03	Site Plan	3444_P_AR_221/A
04	Landscape Plan	

5. Appendices

5.1 Appendix 1 – Conditions and Reasons.

5.2 Appendix 2 – Location of Development.

Author(s)

Name	Designation	Telephone Number/E-mail
Peter McKechnie	Senior Planning Officer	01786 233679 mckechniep@stirling.gov.uk

Report of Handing approved by Chief Planning Officer

Name	Designation	Date
Christina Cox	Planning & Building Standards Manager	7 July 2021

Approved by

Name	Designation	Date
Drew Leslie	Senior Manager	22 July 2021

Details of Convener(s), Vice Convener(s), Portfolio Holder and Depute Portfolio Holders (as appropriate) consulted on this report:	Cllr Alasdair MacPherson Cllr Danny Gibson
--	---

Wards affected:	Ward 2 Forth & Endrick
Key Priorities:	N/A
Key Priority Considerations:	N/A
Stirling Plan Priority Outcomes: (Local Outcomes Improvement Plan)	N/A

Realignment of the access road to the housing development approved under planning permission 19/00781/FUL at Land To South East Of Burn Green, Castlehill Loan, Kippen - Dawn Homes Ltd - 21/00076/FUL

Approve, subject to the following conditions

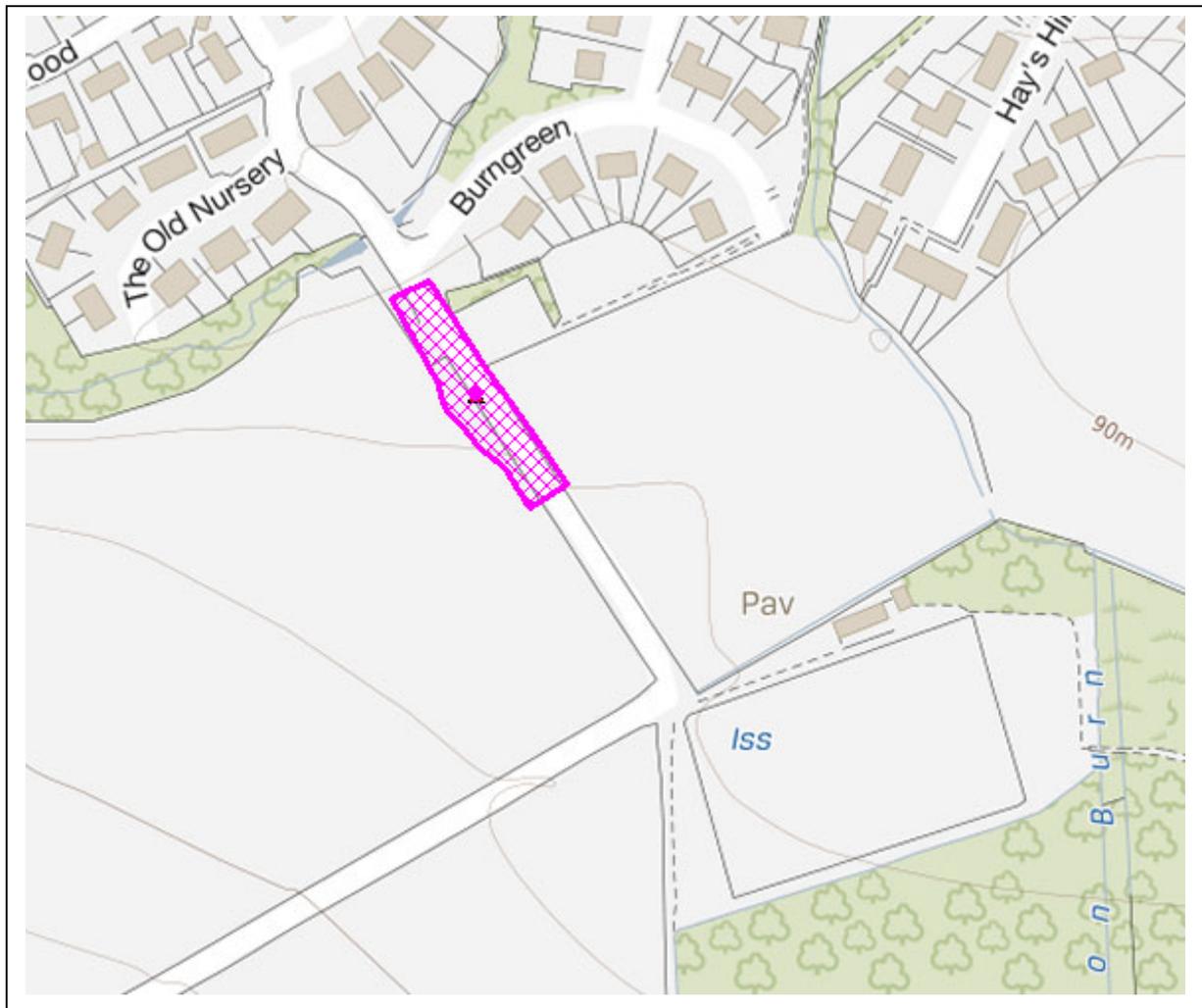
1. **Comprehensive Contaminated Land Investigation:** Prior to commencement of any site works, a comprehensive contaminated land investigation shall be submitted to and approved by the Planning Authority in writing. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution "The Investigation of Potentially Contaminated Sites – Code of Practice (BS 10175:2011)". The report must include a site specific risk assessment of all relevant pollutant linkages, as required in Scottish Executive Planning Advice Note 33.
2. **Detailed Remediation Strategy:** Where the risks assessment identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted to the Planning Authority for approval. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the Planning Authority.
3. **Remediation:** Remediation of the site shall be carried out in accordance with the approved remediation plan. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Planning Authority.
4. **Confirmation Work Carried Out:** On completion of the remediation works and prior to the site being occupied, the developer shall submit a report to the Planning Authority confirming the works have been carried out in accordance with the remediation plan.
5. **Unsuspected or Unencountered Contamination:** The presence of any previously unsuspected or unencountered contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the Planning Authority.
6. **Landscaping:** Prior to the commencement of development on site, the following is to be approved in writing by the Planning Authority: details of all new planting proposals shall be annotated on a planting plan at 1:500 scale. This plan is to include the planting schedule/specification, annotated detail on the shrub planting layout, detailed planting plans, including plant numbers in planting beds, and clearly detail the ground preparation, species, nursery stock, size and density of planting, including areas of grass seed/turf. The tree planting details shall include a mulch of one metre diameter weed free area around the base of the trees in grass.
7. **Roads Design:** The design and construction of all roads, two metre footways, sustainable road drainage and street lighting within the proposed developments shall be in accordance with the design guidance given in "Designing Streets".

8. **Core Path:** The Stirling Council classified core path running adjacent to the site shall remain open during and post construction works.
9. **Archaeological Survey:** No works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the Stirling Council Planning Officer (Archaeology), and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the Stirling Council Planning Officer (Archaeology). Such a programme of works could include some or all of the following historical research, excavation, post excavation assessment and analysis, publication in an appropriate academic journal and archiving.
10. **Tree Protection:** Prior to works commencing on site, the installation of the Tree Protection fence is to be checked by a fully qualified Arboriculturist and the findings reported to the Planning Authority for written approval in accordance with BS: 5837: Trees. No trees are to be topped lopped or felled without the written approval of the Planning Authority.

Reasons:

1. To ensure potential risks arising from previous site uses have been fully assessed.
2. To ensure the proposed remediation plan is suitable.
3. To ensure the remedial works are carried out to the agreed protocol.
4. To provide verification that the remediation has been carried out to the Authority's satisfaction.
5. To ensure all contamination within the site is dealt with
6. In order to ensure that the approved scheme of landscaping is established and maintained in the interests of the amenity of the site and the surrounding area.
7. To ensure that the proposed streets and drainage are adequate to serve the development and to create successful places in accordance with Designing Streets.
8. In order to ensure this path remains open to public use without obstruction.
9. In order to safeguard the archaeological interests of the site.
10. In order to ensure trees within the site and adjacent to the site are protected.

Location of Development



Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database right 2020. All rights reserved. Ordnance Survey Licence number 100020780

