

STIRLING COUNCIL

MINUTES of MEETING of the PLANNING & REGULATION PANEL held by Virtual Meeting on MICROSOFT TEAMS, ON TUESDAY 3 AUGUST 2021 at 10.00 am

Present

Councillor Alasdair MacPHERSON (in the Chair)

Councillor Neil BENNY
Councillor Alistair BERRILL
Councillor Douglas DODDS
Councillor Scott FARMER

Councillor Danny GIBSON
Councillor Jeremy MCDONALD
Councillor Susan MCGILL
Councillor Jim THOMSON

In Attendance

Kevin Argue, Transport Development Team Leader (Environment & Place)
Jane Brooks-Burnett, Senior Planning Officer (Infrastructure)
Christina Cox, Planning & Buildings Standards Service Manager (Infrastructure)
Graeme Forrester, Lead Solicitor – Governance (Governance)
Graham Gibson, Senior Media Officer (Communities & Performance)
Ritchie Gillies, Planning Officer (Infrastructure)
Drew Leslie, Senior Manager – Infrastructure
Julia McAfee, Chief Officer – Governance
Peter McKechnie, Planning Officer (Infrastructure)
Michael Mulgrew, Planning Development Management Team Leader (Infrastructure)
Carla Roth, Solicitor – Litigation (Governance)
Stephen Spiers, Development Control Officer (Environment & Place)
Jane Weir, Senior Planning Officer (Infrastructure)
David McDougall, Governance Officer (Governance) (Clerk)

Prior to the start of the meeting, Councillor MacPherson as Chair of this Planning & Regulation Panel welcomed and thanked everyone for attending the meeting via MS Teams. He updated the meeting on the procedures related to MS Teams and the protocols that both Members and Officers should adhere to throughout the meeting.

The Chair asked the Clerk to carry out a roll call of all Members participating in the meeting.

PL377 APOLOGIES AND SUBSTITUTIONS

Apologies were received from Councillor Graham Houston, with Councillor McGill attending as substitute.

PL378 DECLARATIONS OF INTEREST

Councillors McGill and Farmer advised that they were unable to take part in applications relating to Fordhead Farm (minute ref. PL382) or B&H/Homebase (minute ref. PL383) as these were continuations from previous Panels which they had not been present for.

PL379 URGENT BUSINESS BROUGHT FORWARD BY THE CHAIR

There were no items of urgent business brought forward.

PL380 MINUTES

The Minutes of the Planning & Regulation Panel held on 22 June 2021 were submitted for approval.

Decision

The Planning & Regulation Panel approved the Minutes of the Meeting on 22 June 2021 as an accurate record of proceedings.

PL381 ERECTION OF 6NO. HOLIDAY GLAMPING CABINS INCLUDING NEW ACCESS ARRANGEMENTS AT LAND ADJACENT AND NORTH OF MOUNTVIEW CARAVAN, AUCHINLAY ROAD, DUNBLANE - MR & MRS EMMA AND NEIL MACGREGOR - 21/00216/FUL – HEARING

The proposal was being considered by Planning & Regulation Panel as the development had received more than five objections and required determination by Planning & Regulation Panel in accordance with the Council's Scheme of Delegation for determining planning applications. The local ward Member, Councillor Tollemache, had referred the application to Panel to discuss the impact on the road system and appropriateness of development at this location.

A Hearing request had been made within timescales according to procedure in order to have the opportunity to address the Panel.

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

The Planning Officer introduced the report and updated Members with the presentation of maps of the proposed site.

Applicant

Mr Neil MacGregor, the applicant, presented his case in support of the application.

The applicant advised that Mountview Farm holding had been in his family's ownership for more than 30 years with his father owning and operating it since 2003. They had concerns regarding the future sustainability of the holding and felt that this proposal presented an opportunity to diversify the holding, operating the existing farming activities alongside the establishment of a modest tourism offer.

They considered the proposal to be both suitable and proportionate for the scale of the holding, allowing them to maintain the existing level of farming activity. They had taken care to design the site to be environmentally sympathetic, including plans to achieve carbon neutrality from the outset.

The applicant advised that the site location, as marked by the red boundary in the planning statement was the preferred option, having considered several others. The positioning of existing infrastructure was an important consideration, and they chose to situate the pods adjacent to a large livestock shed and plant yard, avoiding the need for them to be in a wide-open area of field. This placement ensured sympathetic connectivity with existing buildings and farm infrastructure.

The livestock shed offered a significant degree of screening, particularly approaching the holding from the South. The findings of a topographical survey were also an important consideration and the proposed site was located where the landform naturally dipped before rising to the western boundary.

The linear pattern was selected to continue to minimise visual disturbance and was a key strength in the business plan as the design would then offer uninterrupted views of the countryside to visitors.

The road and path network were designed to reduce vehicle movement throughout the holding keeping vehicles as close to existing traffic and plant areas as possible. This would be achieved by sharing the existing entrance and creating a short new access road alongside the existing access track taking visitors to a small car park, which was partly screened by the livestock shed and existing grassy mound adjacent.

The applicant acknowledged that the current verge and planting along the roadside was not sufficient to minimise visual disturbance that may be apparent from the roadside – this was considerably more obvious on the short stretch of road between the main entrance of the holding and the northern boundary.

They recognised that appropriate planting was essential to provide a suitable level of privacy for visitors and to ensure enjoyable countryside views for all. With the pods standing at only 3m tall, they believed that such planting would act to minimise the visibility of the site from the roadside as well as bring the additional benefit of improving the ecological value of the holding.

In conclusion they believed that this development would be a positive and exciting addition to the tourism offer in the Stirling Council area, providing high quality accommodation for visitors.

He thanked the Panel for the opportunity to present his case in support of the application. The Chair thanked Mr MacGregor for his presentation.

Objector

Mr Tom Astbury presented his case in objection to the application, on behalf of the Auchinlay residents who had objected to the application.

The objector advised that the land concerned was not a farm but two open fields surrounded by other owners' farmland, adjacent to two residential properties and on one side by Auchinlay Road. The only access to the site was from Auchinlay Road, meaning that, other than the field it was contained within, the proposed site had no access to open country for recreation other than by travelling along Auchinlay Road.

The objector noted that local residents had raised the possibility of noise and disturbance caused by guests on the site and the direct impact that it would have on residents, particularly those living in the residential cottage who would be within 30 metres of the huts.

Although the Council's Environmental Health Team raised no concerns, in the view of local residents, potential noise and disturbance was a matter of huge concern. Noting the applicant's suggestion of a 10pm curfew, the objector noted it was difficult to see how this would be enforced.

Referring to paragraph 2.10.1 with the Planning report, where the Council's Transportation Development Management Team raised no objection subject to conditions being met, one of which was the provision of a passing place, the objector noted that the suggested location for this passing place was adjacent to the entrance to the site. He argued that this did not resolve the impact on the other 4 miles of single track lane which included hills and blind bends. He noted that residents driveways were used at the moment for passing but increased traffic would always increase risk and inconvenience including damage to driveway entrances. The impact of additional traffic on a single-track road, with its many hazards, remained a serious concern not only for the residents but also by walkers and cyclists who currently used it.

The objector noted that the planning statement from the applicant appeared to be contradictory about the disposal of the considerable amount of foul drainage a development of six cabins would generate. It described both a septic tank system and a private treatment plant with outfall into a watercourse. The plans of the proposed development did not indicate the location of any septic tank and soak away system, or identify the existence of a suitable watercourse on the site. It was difficult to understand how a SUDs scheme, suggested at 2.10.16 within the Planning report would be suitable for this confined site.

Noting the statement within the report that a water connection would be arranged with Scottish Water, the objector noted that the closest access to Public Water was Ashfield. At present all water on Auchinlay Road was supplied through private pipe systems which were in the joint ownership of residents. Permission for connection to the existing private pipe system would not be given by the local residents for this development of six residential huts and associated hot tubs.

Noting paragraph 2.10.14 within the report which stated that *no hedgerows were to be removed*; the objector advised that roadside hedging had already been cut down along the verge at the site within the last year, resulting in loss of habitats for wildlife. In his view it was hard to see how a row of huts with considerable associated infrastructure would have anything other than a detrimental impact on the local environment.

The objectors agreed with the conclusion of the Planning Authority that the proposed development would be highly visually dominant in open countryside and its design and existence was completely inappropriate for this location. Additionally, an increase in traffic and noise would have a negative impact on the lives of existing residents. As local residents they trusted that the Panel would accept the recommendation of the Planning Authority and reject the application.

He thanked the Panel for the opportunity to address the Panel. The Chair thanked Mr Astbury for his presentation.

In response to a question, the Planning Officer clarified the rationale behind reasons for refusal, confirming that it was not deemed to be commensurate in scale with the location, with it being felt the impact would be too significant and would lead to a ribbon development, contrary to existing policies. The landscaping proposals were not felt to be significant enough to mitigate the stated concerns.

Responding to queries, the applicant confirmed his understanding was that a septic tank was proposed rather than a SUDS system. The applicant also confirmed that the site would initially be powered by mains electricity but that the intention was to become carbon neutral by developing their own electricity through a mixture of roof and ground solar panels and ground source heat pump.

The Chair noted that while there was a Council policy on chalets and huts there was no specific guidance relating to glamping pods which continued to grow in popularity, which he felt should be given consideration going forward. The Chair noted there was some helpful guidance on these from the Loch Lomond and Trossachs National Park.

In response to queries from Members, the Planning Officer confirmed they had suggested that a different location within the overall site could have been more appropriate however there had been no follow-up on that comment. It was further clarified that it would not have been possible to amend the application at that stage as a change in the red line boundary would have required a withdrawal and submission of a new application, and the application had already been called in for determination by the Panel.

Responding to a query from the Chair, the Planning & Building Standards Manager confirmed that the Panel would be unable to approve the application in principle, subject to the proposal being relocated to a more appropriate location within the overall site, as this was a full application and not a planning permission in principle.

Decision

The Planning & Regulation Panel agreed to refuse the application for the reasons set out below:

1. in the opinion of the Planning Authority, the proposal failed to comply with Policy 1.1 of the Local Development Plan, since the proposal did not respect the predominant development pattern; and
2. in the opinion of the Planning Authority, the proposal failed to comply with Policy 15.1 of the Local Development Plan, or Supplementary Guidance on Chalet and Huts, since the proposal would be visually prominent within the landscape.

(Reference: Report by Senior Manager – Infrastructure, dated 22 July 2021, submitted)

The Chair adjourned the meeting briefly to allow the Hearing participants to exit the meeting

*The Meeting was reconvened
with all Elected Members, previously noted, present.*

PL382 CREATION OF DWELLINGHOUSE MOSTLY ON THE FOOTPRINT OF AN EXISTING REDUNDANT STONE AND BRICK FARM BUILDING AT LAND AND BUILDING AT FORDHEAD FARM, STIRLING - MR RICHARD LAMB - 21/00096/FUL

The proposal was being considered by Planning & Regulation Panel as the local ward member, Councillor Davies, had referred the application to Panel to discuss the impacts on the A811 without a site visit being undertaken.

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

After the initial presentation of the application at Planning & Regulation Panel on 1 June 2021, the Panel deferred decision to a future meeting to allow information on road safety statistics and vehicle movements in the vicinity to be brought forward for consideration.

Panel Members noted that the Panel had previously requested information regarding accident history at the specific junction which the application related to and noted that historical information had been provided for a 10-12 mile stretch of road rather than the specific location.

The Transport Development Team Leader advised that it would be for the applicant to provide that specific information as part of a transport assessment. Officers had however looked at data the Council held regarding accidents figures as well as speed/volume statistics across the general stretch of road in order to give an assessment of the overall character of that stretch of road.

It was noted that as a result of land ownership issues at the junction, the applicant did not have the ability to provide any reasonable mitigation measures at the junction as part of any competent condition which could be agreed.

The Panel was advised that the junction in question was immediately opposite the Grahams Dairies junction which was a busy opening with a large number of daily vehicle movements. The Transport Development Team Leader advised that while a single dwelling may have seemed negligible in terms of additional traffic, it was felt this would further intensify the vehicle use and increase the risk. Evidence had not been provided to officers through a road safety audit that this proposal would not result in increased risk.

Responding to queries from Members, Officers confirmed that the applicant had not been asked to provide a road safety audit as this was felt to be an overly onerous undertaking given the nature of the application. It was also felt that in this case a road safety audit would have served to highlight specific mitigation measures which would be required to the junction to alleviate the road safety concerns, which the applicant would have been unable to implement due to the land ownership at the junction.

Noting their intention to move to approve the application, Councillors Berrill and MacPherson confirmed their reasoning for moving approval was as follows:-

- The suggested risk from the development would be negligible compared to the traffic levels already present at that location and refusal of the application would be disproportionate based on that factor.
- As well as considering that the road traffic safety implications were less than stated, they also noted that the proposed site was within the footprint of an existing farm building which could be brought back into use at any time, with associated vehicle traffic. Therefore it was felt conversion to a dwellinghouse could lead to a de-intensification of traffic compared to what could potentially occur if farming use was reinstated.

Motion

“The Planning & Regulation Panel agrees to approve the application and delegates authority to the Planning & Building Standards Manager to add standard planning conditions to the approval as appropriate.”

Moved by Councillor Alistair Berrill, seconded by Alasdair MacPherson.

Amendment

“The Planning & Regulation Panel agrees to defer the application to allow detailed information regarding the road safety concerns to be brought back to the Panel for consideration.”

Moved by Councillor Jim Thomson, seconded by Councillor Danny Gibson

On the roll being called, the Members present voted as follow:-

For the Amendment (5)

Councillor Danny Gibson
Councillor Jim Thomson

Against the Amendment (2)

Councillor Neil Benny
Councillor Alistair Berrill
Councillor Douglas Dodds
Councillor Alasdair MacPherson
Councillor Jeremy McDonald

The Amendment fell by 5 votes to 2 votes.

On the roll being called for the Motion, the Members present voted as follows:-

For the Motion (5)

Councillor Neil Benny
Councillor Alistair Berrill
Councillor Douglas Dodds
Councillor Alasdair MacPherson
Councillor Jeremy McDonald

Against the Motion (2)

Councillor Danny Gibson
Councillor Jim Thomson

The Motion was carried by 5 votes to 2 votes.

Decision

The Planning & Regulation Panel agreed to approve the application and delegated authority to the Planning & Building Standards Manager to add standard planning conditions to the approval as appropriate.

(Reference: Report by Senior Manager - Infrastructure, dated 22 July 2021, submitted)

PL383 APPLICATION UNDER SECTION 42 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT TO VARY THE TERMS OF CONDITION NO. 2 ON PLANNING PERMISSION 03/00487/DET AS AMENDED BY CONDITION 1 ON PLANNING PERMISSION 14/00707/FUL, TO ALLOW THE SALE OF A RANGE OF ANCILLARY GOODS AT HOMEBASE, 23 SPRINGERSE RETAIL PARK, STIRLING, FK7 7LL - B&M RETAIL LTD - 21/00053/FUL

Permission was sought by B&M Retail Ltd under Section 42 of the Town and Country Planning (Scotland) Act to vary the terms of Condition No. 2 on planning permission 03/00487/DET to allow the sale of a range of ancillary goods.

At Planning & Regulation Panel on 22 June 2021 Members agreed “to defer the application and asked Officers to provide more detailed information on Policy 2.7 of the Local Development Plan specifically (i), (ii), and (iii), in respect of the applicant’s submission on these matters and Officers’ consideration of them”.

The Planning & Building Standards Manager noted that following consideration of the report submitted, Councillors MacPherson and Benny (who at the original meeting moved to approve the application but then agreed to defer for further information regarding the policy implications) had sought further advice in advance of the meeting and had further clarified their considerations in moving to approve the application, contrary to the Planning Officer recommendations to refuse. Their considerations for approving the application were set out as follows:-

- They had considered the proposals against the development plan and other material considerations. They had considered that the proposals were contrary to policy 2.6 as the proposal did not form bulky goods retailing. In considering the proposals against policy 2.7 (i), (ii), and (iii), it was relevant that only 21% of the floor space would be used for non-compliant goods, with the remainder being used for goods already permitted. This would have an insignificant impact on Stirling City Centre.
- With the conditions that had been proposed by the applicant, this would not involve the introduction of goods that could compete directly with the city centre, for example fashion clothing. The previous consent of this unit allowing an Argos sales unit which didn’t exist on other units within the retail park was also relevant in considering that the impact on Stirling city centre, as a result of this proposal, would be minimal.

Councillors MacPherson and Benny confirmed that the above noted reasoning accurately reflected their considerations in moving to approve the application.

There being no questions from Members, the Chair enquired if anyone was minded to move the recommendation set out within the report, to refuse the application.

Councillor Thomson, having moved the recommendation to refuse and failing to find a seconder, requested that his dissent be recorded.

Decision

The Planning & Regulation Panel agreed to approve the application with conditions.

(Reference: Report by Senior Manager – Infrastructure, dated 22 July 2021, submitted)

PL384 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

This application sought 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 was brought before Panel as it had received more than five objections, including from the Community Council.

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

The Planning Officer introduced the report and explained the background to the request to realign the access road previously approved to service this housing development. The Planning Officer confirmed that the subsequent change which the developer felt was needed to the access arrangements had resulted in a slight change to the overall red line boundary which is why the new application was required for the realignment.

In response to a request for assurance that appropriate replacement planting would be provided to replace the vegetation which had been removed in error, the Planning Officer confirmed that they would ensure there was reasonable vegetation to assimilate the development into the site and that this would enhance biodiversity.

Decision

The Planning & Regulation Panel agreed to 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 the report.

(Reference: Report by Senior Manager - Infrastructure, dated 22 July 2021, submitted)

The Chair adjourned the meeting for a comfort break at 11.40 am

*The Meeting was reconvened at 12.00 pm
with all Elected Members, previously noted, present.*

PL385 PARK OF KEIR DEVELOPMENT

The purpose of this report was to bring the section 75 agreement (the 'S75') negotiated between the Council, Park of Keir Partnership and Mr Allan Duncan King, the landowner, before the Council's Planning & Regulation Panel for scrutiny. At Council on 15 March 2018, Council resolved that the S75 Agreement would be referred to Panel for scrutiny.

Following the scrutiny of Panel, officers would exercise delegated authority under G5 of the Chief Executive's Scheme of Sub-Delegation before passing to the Scottish Ministers'.

The Chair advised the Panel that the exempt appendix containing confidential legal advice could not be discussed within the recorded meeting. If anyone wished to discuss any aspect of the legal advice the meeting would move into private session. Mark McMurray, Partner Solicitor from CMS was present to provide information and advice as required.

The Planning & Building Standards Manager introduced the report, noting that the S75 came about as a result of the Scottish Ministers' intention to approve the application, following a public inquiry in 2016. The notice of intention set out the scope for the S75 and the decision and conditions attached to the minded to approve position were set, and were outwith the scope of the S75.

The three matters which were within scope of the S75 were as follows:-

- The affordable housing and developer contributions;
- A statement regarding no further development on the wider site; and
- ensuring the sports facilities were accessible and affordable.

There were a range of other clauses which were all linked in one manner or another to those three matters, along with a number of standard clauses.

The Planning Officer provided a brief overview of the proposed development, confirming the location of the development and proposals involved.

In response to a query, the Planning & Building Standards Manager confirmed that anything queried or discussed at the meeting would not lead to any changes to the S75 itself. The S75 was being brought to Panel as a result of the Council decision to allow the appropriate Panel to scrutinise it. There was no decision required of the Panel. The officers and legal advisers were confident that they had negotiated the best possible agreement in the circumstances.

The following information was confirmed to the Panel in response to various questions from Panel Members regarding the proposed S75 agreement.

It was expected that a range of price concessions would be included within the access policy mentioned within the S75, which would go into more detail than would be appropriate to include within the S75 itself. It was anticipated that the access policy would include a range of different prices and access arrangements.

The Planning & Building Standards Manager confirmed this was an application for planning permission in principle. There would be subsequent applications brought forward to the Council known as matters specified in condition. A number of conditions were already set out within the S75 and the planning permission minded to grant in principle. The details in terms of the golf and tennis facilities would be specified in these later applications. The conditions and S75 agreement would ensure the dwellinghouses would not be occupied until the extent of development defined with the S75 was complete and operational.

The Planning Officer confirmed that the S75 included relevant contributions to be received in relation to housing and education. The notice of intention received from Scottish Ministers' confirmed the amount the Council were required to cover and this had been included in the S75. It was confirmed that the amount of contributions payable would be calculated based on the supplementary guidance in force at the time of payment.

Panel was advised that all finalised S75 contribution figures were published as a matter of record within the register of land registry. However Stirling Council were looking at implementing their own S75 register to improve ease of access to this information in general.

The Planning & Building Standards Manager confirmed S75 agreements could only deal with the physical aspects of development. There would be difficulty in terms of enforceability in trying to set out any provisions relating to how a facility would operate, such as the provision of outreach programmes within local schools and clubs.

The external legal adviser confirmed that there was no provision within the notice of intention to require a community interest company to operate the facilities, therefore it was not within scope to be included in the S75. The Council was confined to the scope of the parameters set out by Scottish Ministers' within the notice of intention.

Responding to a query regarding the three parties involved, the external legal adviser confirmed that the Park of Keir partnership was included as a party to the S75 agreement and was a legally constituted partnership. They were included as a result of being the party that submitted the application and pursued the appeal. The principal obligations of the S75 agreement were enforceable against the landowner which was Mr Allan Duncan King.

In terms of the enforceable Planning function there was no other option available in terms of trying to agree certain provisions via legal agreement. The Council was limited to the S75 process. It was also noted that a number of matters previously put forward by the developer were taken into account by the Reporter during the inquiry and were found not to meet the legal test for conditions which could be imposed, and were therefore purposefully excluded from scope.

At the request of the Chair, the Panel agreed to move into private session to discuss the confidential legal advice and information contained within the exempt appendix.

The Panel moved into private session to discuss the exempt information

*The Panel moved back into public session
with all Elected Members, previously noted, present.*

Once back in public session, the Chair enquired whether the Panel was content to note the S75 agreement as requested within the recommendations in the report.

Councillor Dodds intimated his intention to put forward a motion asking Panel to agree to defer the matter to a meeting of full Council, to allow consideration of the economic benefits of the proposal to the local community. Cllr Benny intimated his intention to second such a motion for deferral.

The Planning & Building Standards manager advised the Panel that in the event of a deferral of this issue there may be a need to request a further extension to timescales from the Scottish Government, with clear reasons required for the request.

The Panel was also reminded of the potential risk of any delay which could potentially result in any agreement being taken out of the Council's hands entirely and the possibility of a poorer agreement being put in place with less benefits than the proposed S75 agreement negotiated by the Council.

Following further discussion of the proposed motion, the Chief Officer – Governance requested an adjournment to allow an opportunity to clarify the competency of the potential motion.

The Chair adjourned the meeting at 1.40 pm

*The Meeting was reconvened at 2.00 pm,
with all Elected Members, previously noted, present.*

Following the adjournment to consider the previously suggested motion, Cllr Dodds advised the Panel that he was no longer minded to move deferral of the issue.

In considering the matter, the Panel expressed its continued disappointment with the Scottish Ministers' decision to overturn the Panel's determination of the planning application in 2015.

Panel Members concluded by thanking the Officers involved in this process, noting they had done an excellent job in very challenging circumstances.

Decision

The Planning & Regulation Panel agreed to:-

1. note the contents of the report and
2. note the terms of the S75 Agreement found at Appendix 1 to the report.

(Reference: Report by Senior Manager - Infrastructure, dated 23 July 2021, submitted)

The Chair declared the Meeting closed at 2.05 pm