

## **STIRLING COUNCIL**

### **MINUTES of MEETING of the PLANNING & REGULATION PANEL held by Virtual Meeting on MICROSOFT TEAMS, ON TUESDAY 7 SEPTEMBER 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 Graham HOUSTON  
Councillor Jeremy MCDONALD  
Councillor Jim THOMSON

#### **In Attendance**

Stephanie Cameron, Licensing Team Leader (Governance)  
Christina Cox, Planning & Buildings Standards Service Manager (Infrastructure)  
Mark Easton, Lead Solicitor – Commercial & Property Team (Governance)  
Graeme Forrester, Lead Solicitor – Governance (Governance)  
Charlie Haggerty, Legal Manager (Governance)  
Mark Henderson, Senior Media Officer (Communities & Performance)  
Drew Leslie, Senior Manager – Infrastructure  
Peter McKechnie, Planning Officer (Infrastructure)  
Michael Mulgrew, Planning Development Management Team Leader (Infrastructure)  
Neil Pirie, Senior Development Control Officer (Environment & Place)  
Carla Roth, Solicitor – Litigation (Governance)  
Stephen Spiers, Development Control Officer (Environment & Place)  
Karen Swan, Committee Officer (Governance)  
Jane Weir, Senior Planning Officer (Infrastructure)  
David McDougall, Governance Officer (Governance) (Clerk)

#### **Also in attendance**

Sgt Liam Livingston, Police Scotland  
Cameron Greig, Morton Fraser Solicitors

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.

## **PL386 APOLOGIES AND SUBSTITUTIONS**

Apologies were submitted on behalf of Councillor Danny Gibson. No substitute Member was in attendance on his behalf.

## **PL387 DECLARATIONS OF INTEREST**

There was no declaration of interest.

## **PL388 URGENT BUSINESS BROUGHT FORWARD BY THE CHAIR**

There were no items of urgent business brought forward.

## **PL389 MINUTES**

The Minutes of the Planning & Regulation Panel held on 3 August 2021 were submitted for approval.

### **Decision**

The Planning & Regulation Panel approved the Minutes of the Meeting on 3 August 2021 as an accurate record of proceedings, noting the following amendment at PL385 Park of Keir – Recommendation, to state:-

The Planning & Regulation Panel noted:

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

Councillor MacPherson as Chair of the Planning & Regulation Panel updated the meeting on the procedures related to MS Teams Hearing process and the protocols that all should adhere to throughout the next two items.

## **PL390 PROPOSED ROADSIDE SERVICES COMPRISING PETROL FILLING STATION (SUI GENERIS), TRUCK STOP, RESTAURANTS AND DRIVE-THRU (CLASS 3/SUI GENERIS), AMENITY BUILDING (CLASS 1 & 3 AND ANCILLARY USES), LANDSCAPING, ACCESS AND ANCILLARY WORKS/LAND SOME 500 METRES SOUTH WEST OF BALHALDIE FARM DUNBLANE – GB GROVE LTD – 19/00243/PPP – HEARING**

A report submitted by the Senior Manager – Infrastructure detailed that the Planning & Building Standards Manager had referred an application to the Planning & Regulation Panel. In accordance with the Council's scheme of delegation procedures, the application proposed a Major Development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 due to the size of the application site.

A Hearing request had been received in line with procedures.

It was not considered that the application was significantly contrary to the vision or spatial strategy of the Stirling Local Development Plan 2018 and was not required to be referred to Pre-Determination Committee Hearing/Meeting of Stirling 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 Development Management Team Leader introduced the report and updated Members with the presentation of maps of the proposed site.

#### Applicant's Agent

Kerri McGuire, Graham + Sibbald, presented her case on behalf of her client, GB Grove Ltd, in support of the application.

The applicant thanked the Chair for the opportunity to address Elected Members and the Panel. GB Grove Ltd, was a long-established developer and operator of roadside services throughout the UK and had a proven track record in Scotland with services in Glasgow, Lanarkshire and Ayrshire.

In respect of material considerations in support of the Planning Application, there were no objections to the proposed development from any statutory consultee. The proposal was a roadside services development and by virtue of its nature, a roadside location was required. The site would provide a service station and associated facilities for existing traffic traveling north and would provide a safe place to rest and refuel and recharge. The proposal would complement the existing Shell services on the southbound side of the A9.

Roadside services development such as this proposal were required along main transport routes to support the transition to electric vehicles. This proposed development included the provision of 58 electric charge points and would be designed to allow for further charge points to be added to meet growing demand. ChargePlaces Scotland identified that in 2020 Stirling had a total of 55 EV charge points. The proposed development would significantly increase provision in Stirling.

The development would also increase and improve truck stop provision within Stirling. It would provide 50 spaces for HGV's and safe amenities for drivers to rest overnight. In addition, the development could provide electric charging facilities for HGV's to support the transition to electric vehicles. The scale of HGV charging spaces meant that these could not be easily accommodated within settlements.

The development would bring significant economic benefits through the creation of circa 54 jobs by capturing passing trade and it would provide electric charging facilities to ease transition away from fossil fuels. It had been accepted that the facility would serve the needs of a variety of road users, including tourists traveling to or through Stirling.

In respect of the Officers recommendations for refusal, the report noted that the site was not identified in the LDP, not all proposals and uses would be specially identified within an LDP. It was also noted, that there were no specific policies within the LDP for roadside services and that the Regional Transport Strategy identified a requirement to explore opportunities for improved lorry parking.

The proposal would include a very limited retail offer that would be ancillary to the roadside services. The range of goods sold would be restricted and the scale of any retail element could be controlled by conditions. The development would serve the existing traffic on the A9 and would not generate footfall, as the site was not for recreational activity, and should be assessed on its own merits.

The fundamental purpose of a roadside services was to provide a facility for existing road users. The vast majority of trips would be 'pass-by' trips for cars already using the A9. The development would be sustainable as it was located on a key transport corridor and would bring additional benefits in the form of a significant number of EV charging points and would therefore accord with National policy requirements and targets.

The woodland previously felled and was a cleared site, had been undertaken in accordance with the Felling Licence. Scottish Forestry had assessed the development in accordance with the Control of Woodland Removal Policy and had no objection. The landowner was Reo Stakis Charitable Foundation, which had agreed a replanting and compensatory planting plan with Scottish Forestry.

In conclusion, the Officers had confirmed that the proposed development was not significantly contrary to the Development Plan and that granting consent would not undermine the vision and spatial strategy of the plan. The reasons for refusal were not clearly justified, as required in planning legislation. GB Grove Ltd had demonstrated the planning policy and material considerations in support of this development and requested that Elected Members approve this application.

The applicant thanked the Panel Members for their time and would be happy to answer any questions.

The Chair thanked Kerri McGuire for her presentation.

### Objector

Jo Macdonald presented her case on behalf of Dunblane, Ashfield, Kinbuck and Glassingall communities in objection to the application.

With 99 objections, this application had united the Dunblane, Ashfield, Kinbuck and Glassingall communities.

In August 2020, concerns about road safety were raised. Transport Scotland wanted development to be phased with a safety audit after phase 1. Stirling Council advised there could be no phasing, the application was either approved or rejected. Transport Scotland's concerns were weaving lorries conflicting with farms accesses, pedestrians crossing the A9 by foot to catch buses, and traffic using breaks in the central reserve to u-turn. As Dunblane had no petrol station, the developer had suggested that the development would be a community asset even though U-turning traffic and lorries re-accessing the southbound carriageway was a huge concern.

Since August 2020, there had been another fatality and in a separate incident, a lorry driver gave evidence at Perth Sheriff Court on how he had the choice of swerving and killing people in the outside lane or breaking and hoping he did not die. Most recently, a car exiting Subway was spun onto the southbound carriageway and thankfully, the traffic managed to stop.

On the Sheriffmuir Battlefield, the Battlefield Trust and the Scottish Battlefield Trust objected to the proposed development on the basis it would obliterate this sightline. The site was a unique opportunity to enhance a historic site of international importance at little cost to taxpayers being a real economic and tourism opportunity for Stirlingshire.

Numerous objections from local businesses had been received, setting out how their businesses would be adversely impacted, tourism businesses blighted by an industrial site in a countryside location, farmers concerned about the impact to farming and harvesting activities and family-owned bars, shops and restaurants losing passing trade.

As Stirlingshire already had adequate roadside services, drive-thru restaurants and truck stops, by definition, this development would displace business from these existing businesses. All of which were located within Stirling's core area.

What economic and tourism benefits would there be for local businesses if there were services located as you exit Stirlingshire which would allow visitors to by-pass the region, drawing business away from town centres and put at risk existing jobs in Stirling Council area.

Scotland introduced bold policies, phasing out fossil fuel cars and increasing targets for transporting freight by rail. The application was for a new truck stop and petrol station even when Transport Scotland, Stirling Council and the Scottish Reporter established that this infrastructure is not required by national, regional or local transport strategies.

A development where little economic benefit would stay in the area, a development which would put at risk many existing family-owned businesses and would damage important historic assets would go against the entire ethos of the local development plan.

The Dunblane, Ashfield, Kinbuck and Glassingall communities asked that the panel take account of their mounting concerns on road safety, economy and tourism and placemaking, and vote against this planning application.

The Chair thanked Jo MacDonald for her presentation.

In response to Members questions, the Lead Solicitor – Governance confirmed that a briefing note had been issued to Members following the legal challenge that had taken place and that it was not a planning consideration.

The Planning Development Management Team Leader clarified that road safety issues such as U-turns, signage and conditions fell under Transport Scotland. Previously Transport Scotland had requested that an audit take place only once the site was in development. Road safety audits could only be requested by Transport Scotland.

Councillor Jeremy McDonald moved that the application be deferred until Transport Scotland had produced Road Safety details.

With no seconder, Councillor Jeremy McDonald asked for his dissent to be recorded.

## Decision

The Planning & Regulation Panel agreed to refuse the application for the following reasons:

1. the proposed development was contrary to Primary Policy 3: Provision of Infrastructure, in a particular criterion (b), as the site was not identified as being land required for the provision of identified or anticipated infrastructure in either national, regional or local transport strategies or through the LDP DPMTAG Transport Appraisal;
2. the proposed development was contrary to Primary Policy 1: Placemaking of the Stirling Local Development Plan 2018 as it was not located to reduce the need to encroach onto a greenfield site and did not utilise vacant or under-used land and buildings within settlements. Nor did it safeguard or enhance the area's natural heritage;
3. the proposed development was contrary to Policies 2.6: Supporting Town Centres and 2.7: Retail and Footfall Generating Uses as the development was not located within an identified network centre;
4. the proposed development was contrary to Policy 2.9: Economic Development in the Countryside as it was not based on a recreational activity that required a site specific need for a countryside location;
5. the proposed development was contrary to Primary Policy 4: Greenhouse Gas Reduction, in particular criteria (a) and (b), as the development was not in sustainable location and encouraged reliance on the private car; and
6. the proposed development was contrary to Primary Policy 10: Forestry, Woodlands and Trees as the development did not protect existing woodland and did not meet the criteria for removal set out in The Scottish Governments Control of Woodland Removal policy.

(Reference: Report by Senior Manager – Infrastructure, dated 25 August 2021, submitted)

The Chair adjourned the meeting at 10.36am to allow Applicant's Agent and Objector to leave the meeting.

The Meeting reconvened at 10.38am, noting All Elected Members, previously noted, present.

## **PL391 PROPOSED ERECTION OF DETACHED DWELLING HOUSE IN GARDEN GROUND. AT GARDEN GROUND NORTH OF 40 CASTLE ROAD, CAUSEWAYHEAD, STIRLING - MR PAUL BYRNE - 21/00560/FUL – HEARING**

A report by the Senior Manager – Infrastructure was submitted that detailed 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.

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 Development Management Team Leader advised the Panel that the report was due to be taken as a Hearing as it had been requested. When applicant and objectors had been notified, no response to speak was received by either. In the absence of relevant parties, the report would be managed through Panel meeting as a normal planning application for determination.

The Planning Development Management Team Leader introduced the report and updated Members with the presentation of maps of the proposed site.

In response to a Members question, the Planning Development Management Team Leader indicated that the height in relation to the scale & design of the application was roughly 1 metres difference although would have to seek clarity on exact measurement.

The Panel agreed that an adjournment to allow exact measurements to be confirmed would be prudent.

The Chair adjourned the meeting at 11.45am to allow the Planning Development Management Team Leader to clarify details requested.

The Meeting reconvened at 10.50am, noting All Elected Members, previously noted, present.

The Planning Development Management Team Leader confirmed that the height difference was 1.5 metres, which was noted by Members as a substantial difference from the existing building within the street.

#### Motion

The Planning & Regulation Panel agrees to approve the application, subject to the conditions set out at Appendix 1 to the report.

Moved by Councillor Alasdair MacPherson, seconded by Councillor Neil Benny.

#### Amendment

The Planning & Regulation Panel agrees to refuse the application due to the scale and massing presented by the proposals over 2 storeys that would have a significant adverse impact on the character of the streetscape in the vicinity.

Moved by Councillor Jim Thomson, seconded by Councillor Graham Houston.

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

For the Amendment (4)

Councillor Douglas Dodds  
Councillor Scott Farmer  
Councillor Graham Houston  
Councillor Jim Thomson

Against the Amendment (3)

Councillor Neil Benny  
Councillor Alistair Berrill  
Councillor Alasdair MacPherson

Not Voting

Councillor Jeremy McDonald

The Amendment was carried by 4 votes to 3 votes with 1 not voting and became the Substantive Motion.

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

For the Substantive Motion (4)

Councillor Douglas Dodds  
Councillor Scott Farmer  
Councillor Graham Houston  
Councillor Jim Thomson

Against the Substantive Motion (3)

Councillor Neil Benny  
Councillor Alistair Berrill  
Councillor Alasdair MacPherson

Not Voting

Councillor Jeremy McDonald

The Substantive Motion was carried by 4 votes to 3 votes with 1 not voting.

**Decision**

The Planning & Regulation Panel agreed to refuse the application due to the scale and massing presented by the proposals over 2 storeys that would have a significant adverse impact on the character of the streetscape in the vicinity.

(Reference: Report by Senior Manager - Infrastructure, dated 26 August 2021, submitted)

**PL392 APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 1, 2, 3, AND 6 OF PLANNING PERMISSION IN PRINCIPLE 14/00783/PPP FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE AT LAND ADJACENT TO NORTH OF BEARSIDE HOUSE AND SOUTH OF CLAYHILL COTTAGE, POLMAISE ROAD TO CARRON RESERVOIR, STIRLING, STIRLING - BDW TRADING LTD - 21/00206/MSC**

A report submitted by the Senior Manager – Infrastructure that detailed Matters Specified by Conditions (MSC) approval was sought to build housing and associated infrastructure at land adjacent to north of Bearside House and south of Clayhill Cottage, Polmaise Road to Carron Reservoir, Stirling.

The application site was an allocated Local Development Plan (LDP) site to the east of Cambusbarron along Polmaise Road, which also had established residential approval through appeal, following the refusal of application 14/00783/PPP.

The application sought the Planning & Regulation Panel's approval of the information submitted to address the MSC conditions one to three and six of approved application 14/00783/PPP. This approval was also subject to a planning obligation to cover the necessary contributions such as education and roads. The relevant conditions had been listed in the description of the development.

The submission was not a planning application but the second part of the two-stage planning permission in principle process. The detailed matters considered under Conditions one to three and six were primarily in accordance with the Stirling Council Development Plan Oct 2018. The proposed designs, layout, landscaping and roads requirements (subject to further conditions set out at Appendix 1) were all acceptable. In addition, conditions four, five, seven and eight were discharged. These conditions were not MSC conditions and the discharge of these conditions was delegated to officers.

Whilst an application for approval of matters specified in conditions did not fall into national, major or local categories, under the terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, the Council had generally brought these matters to Panel for approval.

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

In response to Members questions, the Senior Planning Officer clarified that the number of houses on the site was within the prescribed amount detailed in the Local Development Plan. He also confirmed that renewables such as electric power charging points and solar panels were part of Conditions attached to the application.

## **Decision**

The Planning & Regulation Panel agreed to approve the application subject to the conditions set out within Appendix 1 to the submitted report.

(Reference: Report by Senior Manager – Infrastructure, dated 26 August 2021, submitted)

The Chair adjourned the meeting at  
11.35am to allow for a break and for the Licensing Team Leader  
to access the meeting.

The Meeting reconvened at 11.50am, noting  
All Elected Members, previously noted, present.

## **PL393 VARIATION TO TAXI VEHICLE CONDITIONS FOR RURAL PLATE**

The Chief Officer – Governance submitted a report that detailed that an application had been received to remove the condition attached to taxi vehicle licence TV72® that restricted trading to a specified locality.

The licensing authority had exercised its power to cap the number of taxi vehicle operator's licences granted within its area. The cap was currently set at 77. The cap only applied to taxi vehicle licences and did not apply to private hire car licences.

There was special provision within that cap for taxis that were licensed to operate in rural areas. Currently there were 11 licences in this category. All of these rural licences had a condition that the taxi operator may not ply for hire within 5 miles of Stirling city centre.

Six of the rural licences also had a condition restricting operation more specifically to a locality, including Aberfoyle (1), Drymen (2) and Dunblane (3).

Taxi vehicle licence TV72® was granted in May 2016 and was restricted to the Dunblane area.

### **Decision**

The Planning & Regulation Panel agreed to approve the variation requested in respect of taxi vehicle licence number TV72®.

(Reference: Report by Chief Officer - Governance, dated 25 August 2021, submitted)

## **PL394 REMOVAL OF LOCALITY RESTRICTION ON RURAL TAXI PLATES**

A report was submitted by the Chief Officer – Governance for the Planning & Regulation Panel to consider the legality and enforceability of conditions attached to certain taxi vehicle operator's licence restricting operation to a specified rural locality and seek delegated authority for officers to remove this condition from all affected rural taxi plates.

The Panel, as civic licensing authority, had exercised its power to limit the number of taxis licensed to operate in its area. Currently, the number of taxi vehicle operator's licences that could be granted within the Stirling area was capped at 77. This included 11 taxis that were licensed to operate in rural areas only, with a condition that the taxi operator may not ply for hire within 5 miles of Stirling city centre.

Six of the rural licences also had a condition restricting operation more specifically to a locality, including Aberfoyle (1 licence), Drymen (2 licences) and Dunblane (3 licences). There had also been one licence restricted to Killian/Crianlarich, but the locality restriction was removed by Panel at its meeting of 22 June 2021, on application by the licence holder.

Following a Members question, the Licensing Team Leader clarified that should the locality restrictions be removed, the city centre restriction would still be imposed.

### **Decision**

The Planning & Regulation Panel agreed to:-

1. note the content of the report;

2. delegate authority to officers to remove the locality restriction from rural taxi plates; and
3. note that officers would refund the application fee to any licence holder who had previously submitted an application to remove the restriction.

(Reference: Report by Chief Officer - Governance, dated 26 August 2021, submitted)

### **PL395 APPLICATION FOR RESTRICTED TAXI VEHICLE LICENCE**

The Chief Officer – Governance submitted a report that detailed an application had been received for the Grant of a Taxi Vehicle Licence for the rural areas only.

The licensing authority had exercised its power to cap the number of taxi vehicles granted within its area. The cap was currently set at 77. That cap only applied to taxi vehicles licenses and did not apply to private hire care licenses.

There was a special provision within that cap for taxis that were license to operate in rural areas. Currently there were 11 license in this category. All of these licenses had a condition that the taxi operator may not ply for hire within 5 miles of Stirling city centre.

#### **Decision**

The Planning & Regulation Panel agreed to approve the application for the grant of a taxi vehicle licence with the conditions detailed within paragraph 2.2 of the submitted report.

(Reference: Report by Chief Officer - Governance, dated 25 August 2021, submitted)

**Council resolved that under Section 50A (4) of the Local Government (Scotland) Act 1973, the public be excluded from the Meeting for the following items of business on the grounds that it involved the disclosure of exempt information as defined in Paragraphs 4 and 6 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.**

Councillor MacPherson as Chair of the Planning & Regulation Panel updated the meeting on the procedures related to MS Teams Civic Hearing process and the protocols that all should adhere to throughout the next three items.

### **PL396 DETERMINATION OF A CIVIC LICENCE APPLICATION: TAXI DRIVER'S LICENCE**

A report was submitted by the Chief Officer – Governance that provided detail in relation to an application for a taxi driver's licence, to be determined by the Planning & Regulation Panel as the civic licensing authority.

The Licensing Team Leader advised the Panel that the applicant had been given the opportunity to attend and provide clarity on their application, no response was received.

The Chair, following the procedures in respect to a Civic Licensing Hearing advised that Police Scotland were in attendance and were given the opportunity to provide clarity on the application.

### **Decision**

The Planning & Regulation Panel agreed to:

1. note the contents of this report and
2. refuse to grant the licence.

(Reference: Report by Chief Officer - Governance, dated 25 August 2021, submitted)

## **PL397 DETERMINATION OF A CIVIC LICENCE APPLICATION: TAXI DRIVER'S LICENCE**

A report was submitted by the Chief Officer – Governance that provided detail in relation to an application for a taxi driver's licence, to be determined by the Planning & Regulation Panel as the civic licensing authority.

The Licensing Team Leader advised the Panel that the applicant had been given the opportunity to attend and provide clarity on their application, no response was received.

The Chair, following the procedures in respect to a Civic Licensing Hearing advised that Police Scotland were in attendance and were given the opportunity to provide clarity on the application.

### **Decision**

The Planning & Regulation Panel agreed to:

3. note the contents of this report and
4. refuse to grant the licence.

(Reference: Report by Chief Officer - Governance, dated 25 August 2021, submitted)

## **PL398 DETERMINATION OF A CIVIC LICENCE APPLICATION: TAXI DRIVER'S LICENCE**

A report by the Chief Officer – Governance was submitted that provided detail in relation to an application for a taxi driver's licence, to be determined by the Planning & Regulation Panel as the civic licensing authority.

The Licensing Team Leader advised the Panel that the applicant had been given the opportunity to attend and provide clarity on their application. The applicant accepted the opportunity to attend.

The Chair adjourned the meeting at  
12.40pm to allow Licensing Team Leader  
to contact the applicant.

The Meeting reconvened at 12.50pm, noting  
All Elected Members, with the exception of Councillor Houston  
who left at the adjournment, were present.

In line with the Civic Licensing Hearing procedures, the Chair invited Police Scotland the opportunity to provide clarity on the application.

Due to technical issues which prevented the applicant from attending, the Lead Solicitor – Governance suggested that the application should be deferred to a future Meeting of the Planning & Regulation Panel, to which the applicant could attend.

The meeting also noted, that if the applicant was unable to attend a future meeting that the Panel could take the decision on the application.

### **Decision**

The Planning & Regulation Panel agreed to defer decision of this application to the next meeting of the Planning & Regulation Panel.

(Reference: Report by Chief Officer - Governance, dated 25 August 2021, submitted)

The Chair declared the Meeting closed at 12.52pm.