

## **STIRLING COUNCIL**

### **MINUTES of MEETING of the PLANNING & REGULATION PANEL held by Virtual Meeting on MICROSOFT TEAMS, ON TUESDAY 5 OCTOBER 2021 at 10.00 am**

#### **Present**

Councillor Alasdair MacPHERSON (in the Chair)

Councillor Alistair BERRILL  
Councillor Douglas DODDS  
Councillor Scott FARMER  
Councillor Danny GIBSON

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)  
Iain Jeffrey, Senior Planning Officer (Infrastructure)  
Drew Leslie, Senior Manager – Infrastructure  
Peter McKechnie, Senior Planning Officer (Infrastructure)  
Michael Mulgrew, Planning Development Management Team Leader (Infrastructure)  
Owen O'Donnell, Senior Media Officer (Communities & Performance)  
Carla Roth, Solicitor – Litigation (Governance)  
Stephen Spiers, Development Control Officer (Environment & Place)  
Jane Weir, Senior Planning Officer (Infrastructure)  
David McDougall, Governance Officer (Governance) (Clerk)

#### **Also in attendance**

Sgt Liam Livingston, Police Scotland  
Fraser Mitchell, Shoosmiths Solicitors  
Jim Ptolomey, Killearn Community Council  
Margaret Vass, Rural Stirling Housing Association

Prior to the start of the meeting, Councillor MacPherson as Chair of the 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.

## **PL399 APOLOGIES AND SUBSTITUTIONS**

Apologies were submitted on behalf of Councillor Neil Benny.

## **PL400 DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **PL401 URGENT BUSINESS BROUGHT FORWARD BY THE CHAIR**

There were no items of urgent business brought forward.

## **PL402 MINUTES**

The Minutes of the Planning & Regulation Panel held on 7 September 2021 were submitted for approval.

### **Decision**

The Planning & Regulation Panel approved the Minutes of the Meeting on 7 September 2021 as an accurate record of proceedings.

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 following item.

## **PL403 APPLICATION FOR APPROVAL OF MATTERS SPECIFIED IN CONDITIONS NOS 1-9 AND 12 OF PLANNING PERMISSION 17/00978/PPP FOR ERECTION OF 11NO. AFFORDABLE DWELLING HOUSES AT LAND ADJACENT TO NOS 1 AND 2, LAMPSON ROAD, KILLEARN - RURAL STIRLING HOUSING ASSOCIATION -20/00408/MSC – HEARING**

Matters specified by conditions approval was sought to build eleven Affordable dwelling houses (Application by Rural Stirling) and associated infrastructure on land adjacent to 1 and 2 Lampson Road, Killearn. The application site established residential approval through the granting of application 17/00978/PPP, which was subject to a planning obligation requiring all the housing to be affordable in accordance with the definition of affordable housing set out in the 2018 Stirling Local Development Plan.

This application sought the Planning and Regulation Panel's approval of the information submitted to address the Matters Specified by Conditions (MSC) 1 to 9 and 12 of approved application 17/00978/PPP and also sought to discharge the remaining conditions of this planning permission. The relevant conditions were listed in the description of the development.

This 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 1 to 9 and 12 were primarily in accordance with the Stirling Council Development Plan October 2018. The proposed designs, layouts, landscaping, tree

retention/removal, impact on European Protected Species and roads requirements (subject to further conditions, set out at Appendix 1 to the report) were all acceptable.

The application had been brought to Panel as it had received more than five objections and there had been a request for a Hearing.

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. Panel was advised that condition 13 as set out within appendix 1 to the report required to be amended to remove reference to tree felling only taking place during specific months, as the applicant had recently obtained a licence to disturb bat roosts within the site. This amendment to condition 13 would therefore require to be included as part of the approval of the application, if approved.

### Applicant

Margaret Vass introduced herself as a Board Member and former chairperson at Rural Stirling Housing Association, and presented her case in support of the application.

There were high levels of need and high house prices throughout the Stirling Rural South West area, with equally high numbers of waiting list applicants for lets. In Killearn, the waiting list ratio was 12 applicants to every social rent property. That was the demand they were aware of, but it was acknowledged that much demand was hidden (particularly homelessness in rural areas). This was shown in neighbouring Strathblane when a local housing needs survey was carried out by the Rural Housing Service in 2019. Private Letting was the main alternative tenure in Rural South West but rent levels continued to be high and not affordable to local people doing vital low paid local jobs.

The site at Lampson Road was considered suitable for provision of affordable housing and they were delighted when Stirling Council requested that they take forward the development. Rural Stirling purchased the land in 2019 with the support of Scottish Government funding from the Affordable Housing Supply Programme, with the intention to build 11 properties, all of these to be for social rent.

The planning permission in principle application submitted by the previous landowner for the development proposal of 12 homes for this site met with considerable objection from the local community and neighbouring property owners, with concerns voiced over several aspects of the design that was submitted.

After purchasing the site, Rural Stirling established a community panel to take the development forward. The design team and Rural Stirling representatives held a number of meetings with nearby residents and Killearn Community Council, and in response to the feedback received at these meetings the design was extensively revised and enhanced. The number of units was reduced from 12 to 11, which allowed the layout of the housing to be opened up to maintain views through the new development from the adjacent properties. The upper cottage flats were reduced to two thirds height and the placement of other units was changed to reduce the impact on views from neighbouring upper windows. Properties were rotated so that their main aspects were now facing away from Lampson Road, and additional design features had been given to gable ends now facing Lampson Road as a result.

This process has resulted in a design that has been adapted to address local concerns, which met local and national policy and would provide robust, sustainable and low-cost housing.

The design proposal for the Lampson Road site also included a wheelchair accessible property specifically designed for a family with specialist needs in urgent need of new housing.

Affordable housing at Lampson Road would be an enormously welcome development for this family, and for all its future tenants, currently waiting for high quality affordable and energy efficient housing in the area. It would provide local people in need of appropriate housing with affordable, well-built and economical homes in the community they felt most connected to, a priority for both Rural Stirling Housing Association and Stirling Council.

The applicant thanked the Chair for the opportunity to address the Panel. The Chair thanked Ms Vass for her presentation.

### Objectors

Fraser Mitchell presented his case as the first of two individuals to speak in objection to the application, sharing the 5 minute time period between them.

Mr Mitchell, a Solicitor from Shoosmiths, noted that he was speaking on behalf of his client, Mr Andrew Willder, who was an objector to the application, noting the full objection had been set out in two letters dated 21 July and 1 October, which he urged Panel members to fully consider before taking any decision.

The primary objection of his client related to the way in which the application had been assessed, which in their view could render unlawful any decision taken by the Panel. Specifically, Panel members had not been provided with all relevant information in relation to ancient woodland.

Part of the application site had been assessed as ancient woodland, and there was a strong presumption against the removal of ancient woodland contained in national policy.

The Panel report concluded that the site suffered from very high herbivore impact and was not ancient woodland of significant bio diversity interest. However this conclusion was not based on a full understanding of the available data from the Native Woodland Survey of Scotland and did not properly consider the strong presumption against the removal of ancient woodland.

Mr Mitchell argued that paragraph 2.89 of the Panel report was factually incorrect, as a correct analysis of relevant data showed that the bio diversity interest of the site had the highest rating in the Native Woodland Survey. The error in this case was based on a reliance on data relating to the impact of deer and livestock on ancient woodland, however there was no livestock on this site, and therefore the purported impact as stated in the Panel report had not occurred and could not occur.

In relation to bats, his client had a number of concerns. First, the Council considered the two bat surveys carried out in 2020 as sufficient in respect of the mature oak tree site, whereas Nature Scotland considered those to be initial surveys and expected later surveys to follow after the hibernation period. No further surveys of the mature oak had been undertaken to their knowledge.

Second, the Panel report referred to the three key tests from the 1994 regulations, that the Council must consider, however did not make Panel aware of what key test 2 required applicants and the Council to address. There was no evidence that the application had addressed key test two.

Jim Ptolomey introduced himself as the Chair and Planning Consultant for Killearn Community Council and presented his case as the second of the two individuals to speak in objection to the application.

Mr Ptolomey noted that he was speaking in relation to the concerns of the property owners in that part of the village. The main concern was the environmental impact and the design in relation to the surroundings. It was their view that the proposals did not comply with the Local Development Plan in that Killearn was already ahead of the number of units targeted within the plan.

Their view was that the proposal did not comply with the Local Development Plan particularly regarding Policy 1 Place Making, as it did not comply with the character of the wider location. In their view it did not positively contribute to the character of the surrounding built environment particularly regarding the density and scale, specifically in relation to the flatted units.

There were also concerns regarding the visual impact of bins and cycle parking onto Lampson road, which would detract from the current look of the area. It was their view that overall the proposal did not present a natural extension to the existing urban form.

Mr Ptolomey noted that in 2017 the same site was deemed unsuitable for 6 houses and that the Planning Panel at that time had concluded that the smaller development would not enhance the quality of the built environment. They could not understand how this much larger development could now be considered appropriate.

The chair thanked Mr Mitchell and Mr Ptolomey for their presentations.

### Local Member

Councillor Robert Davies spoke as a local Ward Member in relation to the application.

Councillor Davies wished to echo the comments made by the applicant in terms of the urgent need for housing within the Ward 2 area, in particular affordable housing. He noted how difficult it was to secure any housing at all, let alone affordable housing.

The Demographics in the area were increasingly elderly and there was a risk that society in the area was being distorted towards the upper age range. Affordable housing would provide an opportunity to lower the average age range in that area which would have knock on effects for society in general, where for example there were increasing closure of rural primary schools due to lack of young families.

Cllr Davies noted that while acknowledging the concerns relating to the Local Development Plan, he would argue that Killearn and surrounding area had a wide variety of architectural styles and it was his view that the area could accommodate it.

Overall, there was an urgent need for housing and a lack of appropriate land to provide it on. This was a piece of land which was available to be developed. He urged the Panel to approve the application.

The Chair thanked Councillor Davies for his presentation. Councillor Davies then withdrew from the meeting by exiting the Teams call.

Councillor Berrill moved that the application be refused due to concerns relating to overdevelopment of the site and the massing and height of the proposed development.

Having failed to find a seconder, Councillor Berrill asked for his dissent to be recorded.

### **Decision**

The Planning & Regulation Panel agreed:-

1. to approve the application subject to the conditions set out at Appendix 1 to the report; and
2. that condition 13 set out within appendix 1 to the report required to be amended to remove reference to tree felling only taking place during specific months, as the applicant had obtained a licence to disturb bat roosts within the site.

(Reference: Report by Senior Manager – Infrastructure, dated 24 September 2021, submitted)

### **PL404 FULL PLANNING PERMISSION FOR PROPOSED MODIFICATION TO THE DESIGN OF DWELLING APPROVED UNDER 19/00980/FUL AT GARDEN GROUND OF 12 WELLGATE DRIVE BRIDGE OF ALLAN - 21/00554/FUL**

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 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.

Responding to questions from Members, the Planning Officer confirmed the extent of removal and replacement of existing hedges and also proposed access arrangements for the new property.

Noting a concern regarding the potential for the construction phase to result in a level of mess and untidiness in the surrounding road area, Councillor Dodds requested that if Panel were minded to approve the application, that the approval should include an additional requirement for the applicant to keep the surrounding road area generally clean and tidy during the construction process. The Planning & Building Standards Manager confirmed that this could be appropriate to include as an additional advisory note to the approval, if Panel were to agree to that.

### **Decision**

The Planning & Regulation Panel agreed to approve the application subject to the conditions set out at Appendix 1 to the report, with the inclusion of an additional advisory note requesting the applicant to keep the surrounding road area generally clean and tidy during the construction process.

(Reference: Report by Senior Manager - Infrastructure, dated 8 September 2021, submitted)

**PL405 DEMOLITION OF EXISTING GARAGE/OUTBUILDING AND ERECTION OF DWELLING HOUSE. AT KINGS PARK HOUSE, 21 VICTORIA PLACE, KINGS PARK, STIRLING, FK8 2QT - MR S MCLEOD - 21/00550/FUL**

Full planning permission was sought for the erection of a dwelling house with associated landscaping, parking and site infrastructure at Kings Park House, 21 Victoria Place, Kings Park, Stirling.

The application had been referred to the Planning & Regulation in accordance with the Council's scheme of delegation procedures since the application had received five or more objections.

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.

Discussion took place regarding various aspects of the development, with some Members noting concerns regarding impact on privacy of the neighbouring property and overall suitability of the application within the conservation area.

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 Graham Houston.

Amendment

The Planning & Regulation Panel refuses to grant the application due to the application being incongruous to the setting of the conservation area, with the height, massing and use of external glazing being inappropriate for the setting.

Moved by Councillor Scott Farmer, seconded by Councillor Alistair Berrill

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

For the Amendment (4)

Councillor Alistair Berrill  
Councillor Douglas Dodds  
Councillor Scott Farmer  
Councillor Jim Thomson

Against the Amendment (3)

Councillor Graham Houston  
Councillor Alasdair MacPherson  
Councillor Jeremy McDonald

Not Voting (1)

Councillor Danny Gibson

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 Alistair Berrill  
Councillor Douglas Dodds  
Councillor Scott Farmer  
Councillor Jim Thomson

Against the Substantive Motion (3)

Councillor Graham Houston  
Councillor Alasdair MacPherson  
Councillor Jeremy McDonald

Not Voting (1)

Councillor Danny Gibson

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

**Decision**

The Planning & Regulation Panel refused to grant the application due to the application being incongruous to the setting of the conservation area, with the height, massing and use of external glazing being inappropriate for the setting.

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

**PL406 SITING OF A PORTABLE KIOSK TO SERVE COLD FOOD, AND COLD AND HOT DRINKS (RETROSPECTIVE) AT KIRKHOUSE INN, GLASGOW ROAD, STRATHBLANE, STIRLING, G63 9AA - MR DAVID COWAN - 21/00531/FUL**

Retrospective planning permission was sought for a portable kiosk to serve cold food and cold and hot drinks.

The application was brought before the Panel as a total of 7 objections had been received in relation to the application. Applications receiving 5 or more objections required referral to the Planning and Regulation 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.

Responding to questions from Members, the Planning Officer confirmed that the application did not include any proposed seating area. The Legal Adviser to the Panel confirmed that approval of the application could not lead to the granting of permission for a seating area through any separate Licensing application process. If a seating area was not included in the planning permission then it could not be permitted through any other process.

## **Decision**

The Planning & Regulation Panel agreed to approve subject to the conditions and reasons as set out in Appendix 1 attached to the report.

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

## **PL407 DETERMINATION OF A CIVIC LICENCE APPLICATION: TAXI VEHICLE LICENCE RESTRICTED TO RURAL AREAS**

The purpose of this report was to provide detail in relation to an application for a taxi vehicle licence to be determined by the Planning & Regulation Panel as the civic licensing authority.

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. That 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.

An application for the grant of a taxi vehicle licence had been submitted. The application was for a rural taxi vehicle licence. The applicant was licensed as a taxi driver and currently drove for another operator. He had submitted a letter to support his application.

If the Panel was minded to approve the application, it was proposed that the following conditions be attached:

- Restricted Area – cannot ply for hire within a 5-mile radius of Stirling City Centre; and
- Rural areas only.

The applicant had agreed to those conditions, and the grant of a vehicle licence in those terms would have no impact on the limit to the number of taxi vehicles in the city centre.

## **Decision**

The Planning & Regulation Panel agreed to:-

1. grant the licence with additional conditions as detailed at paragraph 2.5 of the report as follows:-
  - Restricted Area – cannot ply for hire within a 5-mile radius of Stirling City Centre; and
  - Rural areas only.

(Reference: Report by Chief Officer - Governance, dated 21 September 2021, submitted)

The Panel 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 14 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

#### **PL408 DETERMINATION OF A CIVIC LICENCE APPLICATION: TAXI DRIVER'S LICENCE**

The purpose of this report was to provide 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.

This report had previously been submitted to the Planning and Regulation Panel on 7 September 2021. The Applicant had requested to speak on behalf of his application but did not attend. The Panel took the decision to defer the report to allow the applicant a chance to attend the Panel.

The Clerk outlined the procedures for the Hearing process and the protocols to be followed for this item.

#### Motion

The Planning & Regulation Panel agrees to grant the licence with suitable conditions, to be agreed by Officers in consultation with Police Scotland.

Moved by Councillor Graham Houston, seconded by Councillor Alasdair MacPherson

#### Amendment

The Planning & Regulation Panel refuses to grant the licence.

Moved by Councillor Jeremy McDonald, seconded by Councillor Douglas Dodds

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

#### For the Amendment (4)

Councillor Alistair Berrill  
Councillor Douglas Dodds  
Councillor Danny Gibson  
Councillor Jeremy McDonald

#### Against the Amendment (4)

Councillor Scott Farmer  
Councillor Graham Houston  
Councillor Alasdair MacPherson  
Councillor Jim Thomson

There being an equality of votes, the Chair used his casting vote against the Amendment. The Amendment therefore fell by 5 votes to 4.

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

#### For the Motion (4)

Councillor Scott Farmer  
Councillor Graham Houston

Councillor Alasdair MacPherson  
Councillor Jim Thomson

Against the Against (4)

Councillor Alistair Berrill  
Councillor Douglas Dodds  
Councillor Danny Gibson  
Councillor Jeremy McDonald

There being an equality of votes, the Chair used his casting vote in favour of the Motion.

The Motion was therefore carried by 5 votes to 4.

**Decision**

The Planning & Regulation Panel agreed to grant the licence with suitable conditions and delegated authority to Officers to agree conditions in consultation with Police Scotland.

(Reference: Report by Chief Officer - Governance, dated 21 September 2021, submitted)

The Chair declared the Meeting closed at 1.00 pm