

Business Operations and Partnerships Department

Director of Business Operations & Partnerships: Louise Pringle

Council Headquarters, Eastwood Park, Giffnock, East Renfrewshire, G46 6UG

Phone: 0141 577 3000

website: www.eastrenfrewshire.gov.uk

Date: 9 February 2024

When calling please ask for: John Burke (Tel No. 0141 577 3026)

e-mail:- john.burke@eastrenfrewshire.gov.uk

TO: Councillors B Cunningham (Chair), J McLean (Vice Chair), P Edlin, A Ireland, C Lunday, M Montague and A Morrison.

PLANNING APPLICATIONS COMMITTEE

A meeting of the Planning Applications Committee will be held in the Council Chamber, Council Headquarters, Eastwood Park, Giffnock on **Wednesday 14 February 2024 at 2.00pm.**

The agenda of business is as shown below.

Louise Pringle

L PRINGLE

DIRECTOR OF BUSINESS OPERATIONS & PARTNERSHIPS

AGENDA

1. Report apologies for absence.
2. Declarations of Interest.
3. Applications for planning permission for consideration by the committee - Report by Director of Environment (copy attached, pages 3 - 40).
4. Enforcement Notice Requiring the Re-Siting of a 15m High Telecommunications Mast and Wraparound Base Units Erected on Addison Road, Thornliebank, East Renfrewshire – Report by Director of Environment (copy attached, pages 41 - 44)
5. Section 33A notice - 29 East Kilbride Road, Busby, G76 8JY – Update – Report by Director of Environment (copy attached, pages 45 - 48).

This document can be explained to you in other languages and can be provided in alternative formats such as large print and Braille. For further information, please contact Customer First on 0141 577 3001 or email customerservices@eastrenfrewshire.gov.uk

A recording of the meeting will also be available following the meeting on the Council's YouTube Channel <https://www.youtube.com/user/eastrenfrewshire/videos>

BLANK PAGE

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997**

Draft index of applications under the above acts to be considered by Planning Applications Committee on
14th February 2023.

Reference No: 2022/0719/TP

Ward: 1

Applicant:

Briar Homes
205 St Vincent Street
Glasgow
Scotland
G2 5QD

Agent:

Scott Graham
16 Robertson Street
Glasgow
Scotland
G2 8DS

Site: Former Lyoncross Farm Aurs Road Barrhead East Renfrewshire

Description: Erection of residential development of 39 detached dwellings (to include retention of existing listed farmhouse) with associated access roads, landscaping, open space and other required infrastructure.

Please click [here](#) for further information on this application

Reference No: 2023/0321/TP

Ward: 5

Applicant:

Broom Estates Investments LLP
Tay House
300 C/o North Planning & Development
Bath Street
Glasgow
Scotland
G2 4LH

Agent:

David Campbell
Tay House
300 Bath Street
Glasgow
Scotland
G2 4LH

Site: Eastwood Golf Club Langlee Road Loganswell Newton Mearns East Renfrewshire

Description: Remodelling works to alter existing golf course to 12-holes, erection of new golf clubhouse/pavilion, development of woodland retreat, erection of three dwellinghouses, formation of new access and other ancillary works.

Please click [here](#) for further information on this application

REPORT OF HANDLING

Reference: 2022/0719/TP

Date Registered: 16th January 2023

Application Type: Full Planning Permission

This application is a Local Development

Ward: 1 -Barrhead, Liboside And Uplawmoor

Co-ordinates: 251607/:657965

Applicant/Agent:

Applicant:

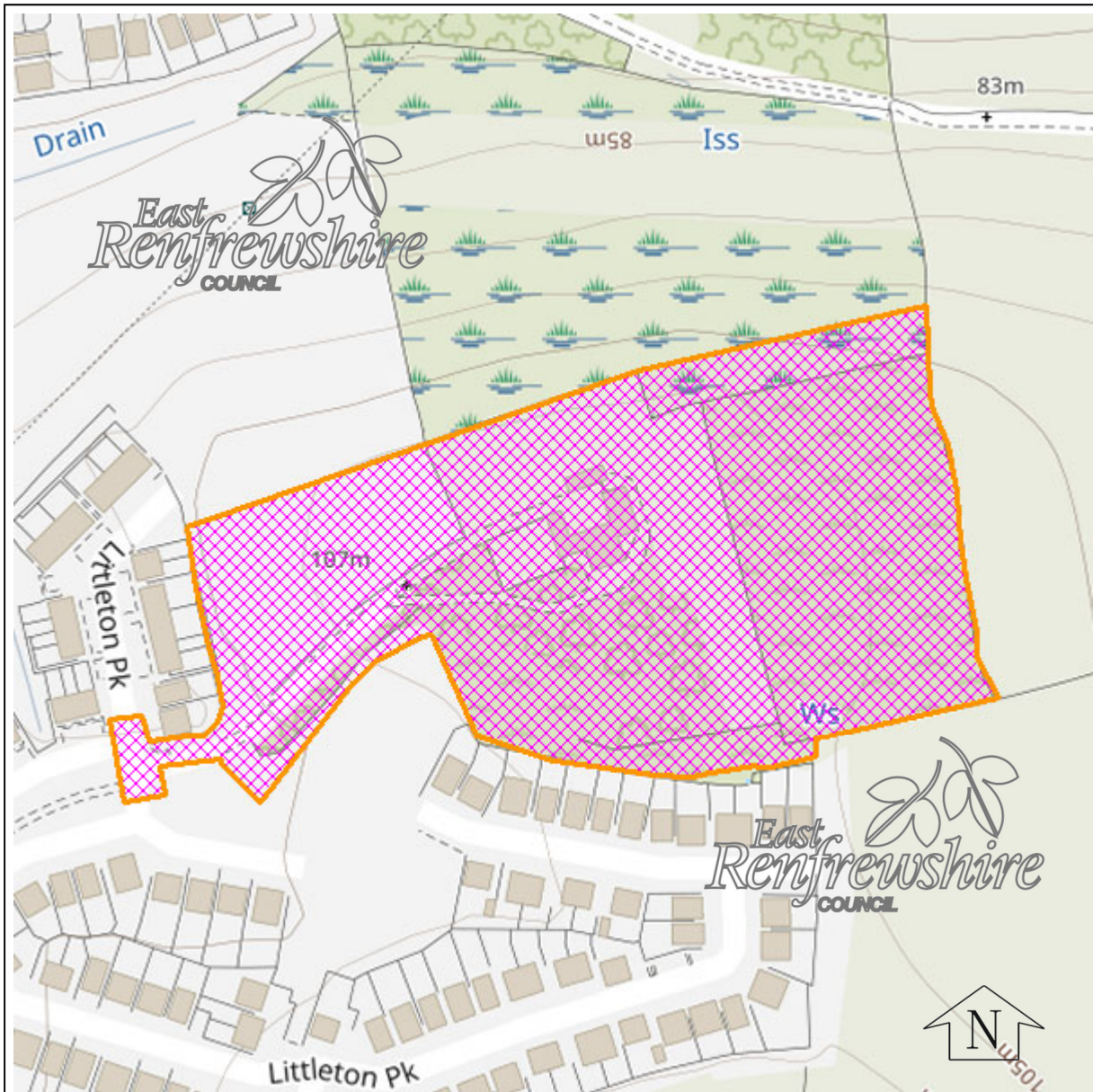
Briar Homes
205 St Vincent Street
Glasgow
Scotland
G2 5QD

Agent:

Scott Graham
16 Robertson Street
Glasgow
Scotland
G2 8DS

Proposal: Erection of residential development of 39 detached dwellings (to include retention of existing listed farmhouse) with associated access roads, landscaping, open space and other required infrastructure.

Location: Former Lyoncross Farm
Aurs Road
Barrhead
East Renfrewshire



DO NOT SCALE

Reproduced by permission of Ordnance Survey on behalf of HMSO. (C) Crown Copyright and database right 2023. All Rights Reserved. Ordnance Survey License number AC0000811675 2023, East Renfrewshire Council

CONSULTATIONS/COMMENTS:

East Renfrewshire Council Roads Service	No objections subject to conditions.
East Renfrewshire Council Environmental Health Service	No objections subject to conditions.
East Renfrewshire Council Principal Officer (Planning Obligations Lead)	Objection. Recommends the application is refused as the proposal was not anticipated or planned for within the LDP2 or Barrhead South Master Plan, the scale of the proposal has not been revised and the applicant has not agreed to the on-site provision of affordable housing in line with master plan requirements. If the application were to be approved, any decision should be subject to the satisfactory conclusion of a Section 75 legal agreement to secure relevant planning obligation requirements (affordable housing provision in line with the master plan framework and development contributions)
East Renfrewshire Council Dams to Darnley Supervisor	Objection. The proposed development would have a significant adverse impact on the Dams to Darnley Country Park in three key ways: Loss of country park land; negative impact on the setting of the country park; and it would sever the route of a key access link.
Coal Authority (Planning And Local Authority Liaison)	No objection.
Scottish Water	No objection. Scottish Water advises that whilst there is capacity for a foul only connection to the Shieldhall Waste Water Treatment Works, they are unable to reserve capacity. Further consideration will be given to the matter by Scottish Water once they receive the applicant's application for connection.
Barrhead Community Council	No response at time of writing.
West Of Scotland Archaeology Service	No objection subject to the implementation of a programme of archaeological works in accordance with an agreed written scheme of investigation.

PUBLICITY:

27.01.2023

Barrhead News

7

Expiry date 10.02.2023

SITE NOTICES: None.

SITE HISTORY:

2021/0980/TP	Erection of residential development of 72 dwellings (to include retention of existing listed farmhouse) with associated access roads, landscaping, open space and other required infrastructure	Withdrawn	08.12.2022
--------------	---	-----------	------------

REPRESENTATIONS: Sixteen representations have been received and can be summarised as follows:

- Loss of open space
- Access via existing development will give rise to road safety issues
- Traffic congestion
- Overlooking
- Overshadowing
- Loss of daylight
- Disruption to amenity during the construction phase
- Loss of trees
- Damage to existing roads and retaining walls during the construction phase
- Departure from Barrhead South Master Plan
- Drainage issues
- Inadequate healthcare facilities
- Impact on Dams to Darnley Country Park
- Impact on wildlife
- Impact on property values

DEVELOPMENT PLAN & GOVERNMENT GUIDANCE:

The relevant policy documents can be found at the following links:

National Planning Framework 4:

<https://www.gov.scot/publications/national-planning-framework-4/>

Local Development Plan 2:

<https://www.eastrenfrewshire.gov.uk/ldp2>

SUPPORTING REPORTS:

Arboricultural Assessment – provides an assessment of the arboricultural impact of the proposed development. It states that the development can be undertaken with minimum loss of tree cover and that the proposed planting will enhance the area's biodiversity. However, it concedes the loss of tree cover is significant but that the development complies with the terms of the development plan.

Archaeological Report – provides a report of a walkover survey. Indicates that the site is not particularly archaeologically sensitive.

Design and Access Statement – provides an analysis of the site, its context and the design proposals. Concludes that the development has been designed in response to the immediate context of the site, whilst delivering a modern development.

Drainage Design Statement – provides a description and assessment of the drainage proposals for the site. Indicates that no watercourses are located near to the site and that the site is not at risk from flooding.

Ecological Assessment – indicates that the proposals will have negligible impact on international or UK designated sites as none are located within 2.5 km of the site. No evidence of badgers was found within the site and no potential for bat roosting and negligible potential for foraging was found.

Flood Risk Assessment – concludes that the site is not at risk from flooding and that the development of the site would not materially increase the risk of flooding elsewhere.

Ground Investigation Report – provides findings in relation to the geotechnical, mining, chemical contamination and gas emissions constraints on the site. It sets out various remedial measures to ensure the site can be safely developed.

Landscape and Visual Impact Assessment – provides a review of the site's physical conditions, followed by a review of the physical impacts the development is likely to produce. Concludes that the development would represent an incremental expansion of the existing development in the area. Recommends planting to mitigate the visual impact.

Planning Statement – Makes an assessment of the proposal against the Policies contained with the adopted East Renfrewshire Local Development Plan 2. Concludes that the proposal can be favourably considered against the terms of LDP2.

Transport Statement – Assesses the potential for minimising private car use through an assessment of the existing pedestrian, cycle and public transport facilities; and makes an assessment of vehicular traffic generated by the proposed development on the local road network. It concludes that the proposed development is accessible by a range of sustainable transport modes and pedestrian connections via the local footway network; that no capacity problems are anticipated within the local road network; that the parking provision accords with the SCOTS National Roads Development Guide parking standards; and that service vehicles can be accommodated within the road layout.

Tree Survey Report – Undertakes a detailed survey of the 99 trees within the site in respect of their nature, extent and condition; provides an inventory of the surveyed trees; and provides recommendations for works in the interest of the proper management of the trees.

Report on Railway Sound – provides a noise impact assessment in terms of the impact of railway noise on the proposed development. It concludes that the railway sound levels will be within the limits given in current guidance and that there is therefore no requirement to introduce any mitigation measures.

ASSESSMENT:

This is a local application under the terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. However, it has to be determined by the Planning Applications Committee as more than 10 objections have been received.

Application site

The application site comprises an area of land around Lyoncross House to the south-east of Barrhead. The site is irregular in shape and extends to 3.5 ha. It consists of open fields to the east and west of Lyoncross House and wooded areas to the north and south as well as part of the

original tree-lined avenue running from Aurs Road to Lyoncross House. Lyoncross House itself is a former farmhouse, built in the traditional U-shaped plan with wings and outbuildings to the north side. It is a category C listed building dating from 1780, with additions and modifications around 1900. At the time of a recent site visit, it was still in use as a dwelling. New residential development, approved under planning permission reference 2018/0408/TP is under construction to the south and west of the site. The site is elevated and visually prominent, particularly when viewed from the north-west, along Aurs Road and from the Dams to Darnley Country Park to the east.

The site lies within the Barrhead South Strategic Development Opportunity Site and master plan area; within the wider housing site SG1.5; within the Dams to Darnley Country Park; and within the Green Network, all as defined within the adopted East Renfrewshire Local Development Plan 2 (LDP2).

As noted, the site lies within the Barrhead South master plan area and forms part of the wider LDP2 SG1.5 allocation at Lyoncross with an allocated capacity of 158 units. The most recent planning permission granted for Lyoncross provides planning permission for 160 residential units on the master plan site.

Proposed development

Planning permission is sought for the erection of 38 two storey detached dwellings and a single one and a half storey dwelling; associated access roads; landscaping; and open space. The proposal includes new native tree planting in the northern and eastern parts of the site. The site is accessed via the existing residential development to the west. The former farmhouse is to be retained, although no works are proposed to it.

The dwellings are proposed to be externally finished with a mix of render and facing bricks and incorporate concrete roofing tiles. With the exception of the single one and a half storey dwelling, all the houses are proposed to have roof-mounted solar panels.

No on-site affordable housing is proposed as the applicant proposes the payment of a commuted sum.

National and local planning policy

The application requires to be assessed with regard to the Development Plan which comprises National Planning Framework 4 (NPF4) and the adopted East Renfrewshire Local Development Plan 2 (LDP2).

National Planning Framework 4 (NPF4)

The policies most relevant to this proposal in NPF4 are Policy 1 (tackling the climate and nature crises), Policy 2 (Climate mitigation and adaptation), Policy 3 (Biodiversity), Policy 4 (Natural places), Policy 6 (Forestry, woodland and trees), Policy 7 (Historic assets and places), Policy 12 (Zero Waste), Policy 13 (Sustainable transport), Policy 14 (Design, quality and place), Policy 15 (Local living and 20 minute neighbourhoods), Policy 16 (Quality homes) and Policy 20 (Blue and green infrastructure).

Policy 1 (Tackling the climate and nature crises) states that when considering all development proposals, significant weight will be given to the global climate and nature crises. Two of the impacts of this policy, as set out in NPF4 are to promote local living and compact urban growth.

Policy 2 (Climate mitigation and adaptation) states at a) "development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible"; and at b) "development proposals will be sited and designed to adapt to current and future risks from climate change."

Policy 3 (Biodiversity) states at a) that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and

strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. At c) it states that proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance; and at d) it states that any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design.

Policy 4 (Natural places) states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. It further states that development proposals that affect a site designated as a local nature reserve or landscape area in the Local Development Plan will only be supported where the development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified.

Policy 6 (Forestry, woodland and trees) states that development proposals that enhance, expand and improve woodland and tree cover will be supported and that where woodland is removed, compensatory planting will most likely be expected to be delivered.

Policy 7 (Historic assets and places) states that "development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records."

Policy 12 (Zero waste) b) states that development proposals will be supported where they reuse existing buildings and infrastructure.

Policy 13 (Sustainable transport) states that development will be supported where it can be demonstrated that sustainable transport requirements have been considered and where it provides easy access to walking and cycling networks, cycle parking and EV charging points.

Policy 14 (Design, quality and place) states: "Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale."

Policy 15 (Local living and 20 minute neighbourhoods) states that development proposals should contribute towards local living and where appropriate, 20 minute neighbourhoods. To establish this, consideration should be given to the existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area.

Policy 16 (Quality homes) states at e): "Development proposals for new homes will be supported where they make provision for affordable housing to meet an affordable need. Proposals for market homes will only be supported where the contributions to the provision of affordable housing on a site will be at least 25% of the total number of homes, unless the LDP sets out circumstances where:

- i. a higher contribution is justified by evidence of need, or
- ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes. The contribution is to be provided in accordance with local policy or guidance.

f): "Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i. the proposal is supported by an agreed timescale for build-out; and

ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods."

Policy 20 (Blue and green infrastructure) seeks to protect blue and green infrastructure and their networks. It states that development proposals that result in the fragmentation or loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision and that the overall integrity of the network will be maintained.

East Renfrewshire Local Development Plan 2

Strategic Policies 1 and 2 and Policies M2, M2.2, D1, D4, D6, D7, D9, D14, D15, SG1, SG2, SG4 and E1 of the adopted East Renfrewshire Local Development Plan are also relevant to this development.

Strategic Policy 1 sets out the Council's development strategy. It can be summarised as: the regeneration, consolidation and environmental enhancement of the urban areas; a master-planned approach to development at the Strategic Development Opportunity locations; infill development within the rural settlements; the phased release of sites; and the protection and enhancement of the green belt and landscape character and setting and the distinct identity of towns and villages. It further states that proposals for windfall sites will be required to provide the required infrastructure arising from development in accordance with Strategic Policy 2 and not prejudice the delivery of allocated sites. Where infrastructure constraints cannot be overcome, including any impacts of residential development upon education infrastructure, proposals will not be supported.

Strategic Policy 2 relates to development contributions and states that where new developments individually or cumulatively generate a future need for new or enhanced infrastructure provision, services or facilities, the Council will require to meet or proportionately contribute to the cost of providing or improving such infrastructure.

Policy M2 states that the Council supports the master planned growth of Barrhead in accordance with Policy M2.2.

Policy M2.2 states that development within the Barrhead South SDO will be acceptable in principle in accordance with Policy M2 and its supporting master plan which sets out a comprehensive approach to the delivery and phasing of sites per schedule 15 and 16 of LDP2. Policy M2.2 goes on to state that the master plan addresses various requirements including: a landscape framework that will enhance and promote a multi-functional and accessible green network of connected green infrastructure; provision of improved connections to the surrounding road, foot and cycle path network and to the Dams to Darnley Country Park; and enhancement of the Dams to Darnley Country Park.

Policy D1 states that all development should not result in a significant loss of character or amenity to the surrounding area and that safe and functional pedestrian, cycle and vehicular access and parking facilities and infrastructure are provided in accordance with the Roads Development Guide.

Policy D4 states that the Council will be required to protect and enhance the green network.

Policy D6 sets out the open space requirements for new development.

Policy D7 states that the Council will seek to increase the quantity and quality of the area's biodiversity and that development affecting trees, groups of trees, or areas of woodland will only be permitted where any tree group of trees or woodland that makes a significant and positive contribution to the setting, amenity and character of the area has been incorporated into the development through design and layout.

Policy D9 states that the Council will continue to support the Dams to Darnley Country Park and the implementation of relevant management and access plans.

Policy D14 states that development likely to adversely affect the historic built environment will not be supported.

Policy D15 states that there is a presumption against works that adversely affect the special interest of a listed building or its setting.

Policy SG1 supports housing development on allocated housing sites set out in schedule 15 of LDP2. It states that proposals will require to comply with Strategic Policies 1 and 2, Policy D1 and other relevant policies of the plan. Schedule 15 of LDP2 identifies the wider Lyoncross site as having a capacity of 158 units.

Policy SG2 states that the Council will require residential proposals to provide a mix of dwelling types, sizes and tenure types to meet housing needs to widen housing choice and contribute towards the creation of sustainable mixed communities.

Policy SG4 provides that the Council will require residential proposals of 4 or more dwellings to provide a minimum of 25% affordable housing contribution. This can be by means of on-site provision; payment of a commuted sum; or off-site.

Policy E1 requires that sustainable design should be incorporated into new developments.

Supplementary Planning Guidance

The Supplementary Planning Guidance: Barrhead South Masterplan (2015) is also relevant to the consideration of this application. It sets out the development framework, greenspace strategy and the design principles for the development of the Barrhead South SDO, including housing site SG1.5 at Lyoncross.

Under 1.8 Greenspace Strategy, it states that the proposal for Barrhead South will create a sensitive extension to Barrhead with an attractive transition between town and country. The visual effects of the wider Barrhead South development have been mitigated by the master plan via the greenspace strategy with areas of open space created to mitigate views into the site. Open space has also been located to take advantage of views out of the site. Views across the country park have also been incorporated.

At 1.10 Landscape Fit, it states that the development framework has been designed to integrate with the surrounding landscape. In that regard, the Barrhead South Technical Appraisal identifies four areas of sensitivity, including Lyoncross East, which is generally coterminous with the application site. It states that the existing vegetation should be retained and integrated onto the greenspace framework throughout the site.

The Development Framework at 1.12 envisages the former Lyoncross farmhouse as being renovated and integrated into the Barrhead South development as a small group of "steading homes". The areas to the east, north and north-west of the farmhouse are envisaged by the master plan as being open space to facilitate the transition between town and country.

The master plan indicates that the original tree-lined avenue leading from Aurs Road to Lyoncross farmhouse is to be retained and states that construction should not take place within the root protection areas of the trees to ensure their survival.

The master plan also identifies a comprehensive network of paths to be established across the area. This includes a key active travel route running east to west, connecting Lyoncross and the country park with the rest of the Barrhead South SDO site.

The adopted Supplementary Planning Guidance: Green Networks (June 2023) supports and forms part of Policy D6 of LDP2. It sets out the minimum open space requirements for private gardens and amenity open space in new residential developments.

For private gardens it stipulates:

1. Rear gardens should have a depth of at least 10m from rear elevation of house to plot boundary in order to maintain adequate privacy. 2. Front garden provision should complement the design of the house. 3. There should be a minimum of 2m from any house to the side plot boundary. A 3m house to side plot boundary will be expected where properties are 3 full storeys.

For amenity open space it stipulates a minimum of 10 square metres per habitable room.

The Supplementary Planning Guidance: Dams to Darnley Country Park is a material consideration. It identifies key access priorities including the key east-west active travel route referred to in the master plan.

Detailed Assessment

Principle of the development

In assessing the proposal against the development plan, an assessment is firstly made on the principle of the development, that is: whether the proposed development at this location is acceptable in terms of broader planning policy. In this regard, Policy 16 of NPF4 and Strategic Policy 1 and Policies M2, M2.2 and SG1 of LDP2 are relevant.

As noted above, the application site is located within the wider Lyoncross site allocated within LDP2 as site reference SG1.5. Site SG1.5 has an allocated capacity of 158 units. Planning permission 2018/0408/TP for the erection of 160 dwellings on site SG1.5 was granted on 19 November 2018 and is now nearing completion. This current application seeks planning permission for the erection of a further 39 dwellings on site SG1.5, surrounding Lyoncross House on the west, south and east sides. This new proposal is not anticipated nor planned for in LDP2 and goes beyond the capacity of site SG1.5 as set out in schedule 15 of LDP2 and does not accord with the phased release of sites as shown in schedule 15.

Whilst the Barrhead South Master Plan states that Lyoncross House will be restored and integrated into the Barrhead South development to form a small group of "steading homes," that proposal did not come forward as part of the 2018 application and does not form part of the current application. If the current application were to be approved, pushing the unit numbers on site SG1.5 beyond the allocation in LDP2, this may, at least in the short term, prejudice the future conversion and restoration of Lyoncross House as a small development of steading homes.

As such, the proposal is considered to be contrary to Policy 16 of NPF4 and Strategic Policy 1 and Policies M2.2 and SG1 of LDP2.

Impact on Existing Infrastructure

Strategic Policy 2 requires that new development must be accompanied by the appropriate infrastructure and services required to support new or expanded communities. Where new developments individually or cumulatively generate a future need for new or enhanced infrastructure provision, services or facilities, the Council will require the development to meet or proportionately contribute to the cost of providing or improving such infrastructure. The Principal Strategy Officer (Planning Obligations Lead) has advised that a per unit development contribution figure was agreed in 2016 for the Barrhead South master plan sites that were planned and programmed through the LDP. This per unit figure included development contributions for affordable housing commuted sums; education; Dams to Darnley Country Park; green network; path networks and access integration; community facilities (community halls & libraries and sports); and parks and open space. Since that time the Council has experienced a significant increase in the number of resident pupils and the pupil product ratio has risen (i.e. the propensity of residential units to generate children of school age). The catchment schools and early years establishments associated with the site are experiencing high occupancy rates (currently above 90% for primary schools and 85% for secondary schools) and are expected to exceed 100%. As this new proposal was not anticipated or planned for, and given that its impact on the education estate (should it be supported) would be significant, an updated assessment of the education

element of the required development contributions was required, based on the Council's current Development Contributions Supplementary Guidance (2023).

Should this proposal be approved, along with development contributions towards affordable housing commuted sums, Dams to Darnley Country Park, green network, path networks and access integration, community facilities (community halls & libraries and sports), and parks and open space, discussions would also be required with the Education Department to carefully and strategically plan the scheduling of the proposed dwellings to mitigate the impact of this development on the school estate. The applicants have agreed to these development contributions requirements.

Impact on character and amenity of the area and setting of the listed building

Given the site's elevated nature, the proposed dwellings would have a significant visual impact when viewed from Aurs Road to the north-west and from the Dams to Darnley Country Park to the south-east, east and north. Whilst the proposed landscaping in the northern and eastern parts of the site is noted, the proposed dwellings will nevertheless be visible against the skyline when viewed from long views at lower elevations. The removal of the existing mature trees from the west of Lyoncross House, including part of the avenue and from the south, mostly to accommodate the proposed development, will further exacerbate the visual impact and detract from the character and visual amenity of the site. It is further considered that the erection of the proposed dwellings, given their design and proximity to the listed building will encroach upon and detract from its setting and character.

In terms of the provision of safe and functional pedestrian, cycle and vehicular access and parking provision, the Council's Roads Service has indicated that, subject to minor changes in relation to the road surface, it has no significant opposition to the proposed layout. This element of the proposal therefore raises no conflict with Policy D1 of LDP2.

Given the site's layout and in particular the separation distances between the proposed dwellings and the dwellings approved under planning permission 2018/0408/TP, the proposal would not give rise to significant additional overlooking, overshadowing or loss daylight that would be to the detriment of the occupants of the existing dwellings. Further, given the site's layout and the orientation of the proposed dwellings relative to each other, the proposal is considered to be adequately designed in so far as the occupants of the proposed dwellings would be protected from significant overlooking and overshadowing and would have access to adequate daylight.

Nevertheless, taking all of the above into account, the proposal is therefore considered to be contrary to Policies 7 and 14 in respect of impact on the listed building of NPF4 and contrary to Policies D1, D14 and D15 of LDP2. This aspect of the proposal is also further contrary to the aims and aspirations of the Barrhead South Master Plan that seeks to retain the trees within the site, including the tree-lined avenue.

Impact on green network and Dams to Darnley Country Park

As noted above, the proposal represents the erection of a residential development within the green network and within the Dams to Darnley Country Park. This would result in the loss of a significant part of the green network and the country park to the detriment of the character and amenity of the area and would compromise the aim of the Barrhead South Master Plan to create an attractive transition between town and country. This has been substantiated by the consultation comments of the East Renfrewshire Council Strategy Service (Dams to Darnley Project Supervisor).

The Barrhead South SDO Master Plan identifies a comprehensive network of paths to be established across the area. The network is to include a key active travel route running west to east, connecting the sites to the west with the Lyoncross site, across Aurs Road. The master plan identifies the indicative route of the path as following the line of pylons within the public open space associated with Lyoncross, before turning south towards the railway. The aspiration is for this route to connect to the Core Path running through the entire Country Park. The route is identified as a key access priority within the Dams to Darnley SPG (section 3.3.4).

The proposal is therefore contrary to Policies 4 and 20 of NPF4 and Policies D4 and D9 of LDP2 and further contrary to Policy M2.2 of LDP2 in respect of its detrimental impact on the Dams to Darnley Country Park; loss of the green network and the severance of a proposed key active travel route.

Tree loss and impact on biodiversity

The Tree Survey Report, submitted in support of the application, indicates that 99 trees were individually surveyed within the site. Of those trees, 40 are to be retained with 30 being removed solely to accommodate the development and a further 29 being removed for health and safety reasons. According to the Tree Survey Report, of the 30 trees to be removed solely to accommodate the development, 1 is category A, 10 are category B and 19 are category C. The 29 trees to be felled for health and safety reasons are all category U.

The Arboricultural Impact Assessment sets out proposals for mitigation planting, mainly in the northern and eastern parts of the site. It indicates that 185 trees are to be planted along with numerous woodland and hedgerow plants.

The Ecological Assessment submitted in support of the application states that that no protected species were found on the site with no potential for bat roosting and negligible potential for bat foraging. The phase 1 habitat survey revealed restricted habitat diversity and that the habitats are of low value and are unexceptional. It also states that the proposed development will result in opportunities for improved habitat diversity in the form of the proposed tree and shrub planting.

Notwithstanding the benefits of the proposed planting and the terms of the Ecological Assessment, the proposal involves the loss of a significant amount of established tree cover, specifically protected by the terms of the Barrhead South Master Plan. The tree cover at Lyoncross is considered to be locally important in terms of its contribution to the character and setting of the listed building and a valuable resource for future residents in terms of its contribution towards the areas green space. The established tree loss would have a significant detrimental impact on the character and setting of Lyoncross House and on the character and amenity of the wider area. It is noted that Policy 6 of NPF4 states that development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal; and that development proposals on sites which include an area of existing woodland will only be supported where the enhancement and improvement of woodlands are integrated into the design.

Given the loss of a significant part of this locally significant tree cover the proposal is contrary to the aims of Policy 6 of NPF4 and contrary to Policy D7 of LDP2 and further contrary to Policy 14 of NPF4 and Policies D1 and D14 and D15 of LDP2.

Design and layout

As discussed above, the number of dwellings proposed, their design and their proximity to the listed building raise significant issues in terms of the setting and character of Lyoncross House and the ability to deliver the master plan's aspiration for the conversion and steading development. Again, as noted above, the layout also compromises the delivery of a Key Active Travel Route as envisaged by the masterplan.

In isolation, the layout would generally comply with the principles of Designing Streets and, as noted, the Roads Service offered no objection subject to minor changes that could have been addressed by condition had the application been otherwise acceptable. This would not, however have addressed the impact of the design and layout on the character and setting of Lyoncross House or the delivery of the Active Travel Route.

It is also noted that the proposed dwellings show little regard to the character and design of the listed building and, with the exception of a single one and a half storey dwelling, all are of two storey detached villa styles.

In terms of open space, the proposal meets the minimum requirements for public amenity open space. However, a significant number of the private gardens fail to meet the specific size and configuration requirements as set out in Policy D6 of LDP2 and in the adopted Supplementary Planning Guidance: Green Networks.

The proposal is therefore contrary to Policy D6 of LDP2 and contrary to the terms of the adopted Supplementary Planning Guidance: Green Networks.

Affordable housing

The Barrhead South Master Plan sets out an affordable housing framework for all sites within the masterplan area. The framework details that the minimum 25% affordable housing policy requirement is to be split as follows: 8% on site provision; 8.5% entry level for sale units of a maximum 800sq ft; and 8.5% as a commuted sum payment. As noted, no on-site affordable housing is provided for in the submitted plans and the applicant has indicated that the full 25% contribution will be made via a commuted sum. The applicant has stated in communications with the Principal Strategy Officer (Planning Obligations Lead) that the site is not suitable for on-site provision of affordable housing.

The Principal Strategy Officer (Planning Obligations Lead) has advised that although the Council's affordable housing policy does allow flexibility for the Council to accept the payment of a commuted sum in some cases, this is usually on sites that are unsuitable for on-site provision and where there are advantages to the Council in accepting commuted sums. There are a number of adjacent and closely located sites within the masterplan area where affordable housing has been successfully delivered on site in accordance with Policies SG2 and SG4 and the terms of the Barrhead South Master Plan. The site is close to public transport and active travel networks and the wider masterplan is due to deliver a new railway station and neighbourhood retail development within proximity to the site. The Council does not therefore agree that the site is not suitable for on-site affordable housing provision. Given the pressing need and demand for affordable housing in the area; the significantly increased size of the Council's housing waiting list; and the increase in homeless applications submitted to the Council, it is considered appropriate for any planning approval to require on-site affordable provision in this instance.

In the absence of such on-site provision, the proposal is contrary to Policy 16 of NPF4 and Policies M2.2 and SG4 of LDP2.

Local living and climate change

Given the site's location, and connections with the wider public road and footpath network, the proposal would be relatively easily accessible via a range of transport options. This would offer ready access to Barrhead Town Centre and a variety of amenities. In this regard, it is considered that the proposal does not conflict with the terms of Policy 13 of NPF4 in terms of sustainable transport options.

Whilst the loss of trees is noted and for the reasons given above, found to be unacceptable, their loss is localised and would not therefore be considered to have a significant impact on climate change.

It is not therefore considered that the proposal would raise significant conflict with Policies 1, 2 or 15 of NPF4. However, this is insufficient to outweigh the concerns outlined above.

Given the fore-going, it is considered that the proposal is contrary to the terms of the development plan.

Representations

The points of objection not specifically considered above are addressed as follows:

It is inevitable that, if the application were to be approved, there would be some disruption to existing residents in terms of HGV movements, noise, dust and vibration. This would nevertheless be temporary and would not justify a refusal of the application. It would be the responsibility of the developer and any sub-contractors to operate the site and access and egress the site in a safe manner. Any damage to existing infrastructure would be a private legal matter and would not therefore be a material planning consideration.

A comprehensive drainage plan and Drainage Design Statement have been submitted in support of the application. The Roads Service as flooding authority has raised no objections to the proposal. Detailed drainage matters would be considered at the building warrant stage should the application be approved.

The objection relating to healthcare provision and surgery capacities is noted.

While the site is not covered by a nature designation, the impact on the loss of trees and open space has been considered above and found to be unacceptable.

Property values are not a material planning consideration and do not therefore have a bearing on the assessment of the proposals.

Overall Conclusion

The proposal has been assessed with regard to the terms of the development plan which comprises National Planning Framework 4; the adopted East Renfrewshire Local Development Plan 2; and the adopted Supplementary Planning Guidance on Development Contributions, Affordable Housing and Green Networks. Material considerations including the Supplementary Guidance: Dams to Darnley Country Park and the Barrhead South Master Plan; objections and consultation responses have also been considered.

In assessing the proposal, the principle of the development at this location was found to be contrary to Policy 16 of NPF4; and Strategic Policy 1 and Policies M2.2 and SG1 of LDP2, as it is not anticipated nor planned for in LDP2 and goes beyond the capacity of site SG1.5 as set out in schedule 15 of LDP2.

Notwithstanding the applicant's proposals for tree planting, the proposal to develop this elevated, prominent site would result in a significant loss of established tree cover and would detract from the character and setting of the listed building, the setting of the country park and the character and visual amenity of the wider area. As such, the proposal is found to be contrary to Policies 7 and 14 in respect of impact on the listed building of NPF4 and contrary to Policies D1, D14 and D15 of LDP2.

The proposal is also found to be contrary to Policies 4 and 20 of NPF4 and Policies D4 and D9 of LDP2 and further contrary to Policy M2.2 of LDP2 in respect of its detrimental impact on the Dams to Darnley Country Park; loss of the green network and the severance of a proposed key active travel route.

Given the loss of a significant amount of locally significant tree cover the proposal is contrary to the aims of Policy 6 of NPF4 and contrary to Policy D7 of LDP2 and further contrary to Policy 14 of NPF4 and Policies D1 and D14 and D15 of LDP2.

The applicant has not provided on-site provision of affordable housing and as such, the proposal is contrary to Policy 16 of NPF4 and Policies M2.2 and SG2 of LDP2.

In conclusion, the proposal is contrary to the terms of the development plan. There are no material considerations that indicate the application should not be refused. It is therefore recommended that the application is refused.

PLANNING OBLIGATIONS: None.

RECOMMENDATION: REFUSE**REASONS FOR REFUSAL:**

1. The proposal is contrary to Strategic Policy 1 and Policies M2 and M2.2 of the adopted East Renfrewshire Local Development Plan 2 as it relates to residential development within the Barrhead South Strategic Development Opportunity Area that is unanticipated; does not accord with the comprehensive delivery and phasing of sites; and is contrary to the terms of the Supplementary Planning Guidance: Barrhead South Master Plan. It is also contrary to Policy 16 of National Planning Framework 4 and Policy SG1 of the adopted East Renfrewshire Local Development Plan 2, as it relates to residential development within allocated housing site SG1.5 that exceeds the site's allocated capacity by 39 dwellings and as such, does not accord with the comprehensive delivery and phasing of sites or with the Council's spatial strategy.
2. The proposal is contrary to the terms of the Supplementary Planning Guidance: Barrhead South Master Plan as: i) it relates to residential development within the Barrhead South Strategic Development Opportunity Area that is unanticipated and does not accord with the comprehensive delivery and phasing of sites; ii) results in the loss of a significant area of open space within the Dams to Darnley Country Park which is contrary to the aims of the master plan's greenspace strategy; iii) results in the loss of established trees including part of the avenue leading to Lyoncross farm house which is contrary to the specific aims of the master plan; iv) it is considered that the proposal would prejudice the delivery of the conversion of Lyoncross farm house given the significant increase in anticipated unit numbers which would be contrary to the stated aims of the master plan; and v) does not provide on-site provision of affordable housing.
3. The proposal is contrary to Policy 16 of National Planning Framework 4 and Policies M2.2 and SG4 of the adopted East Renfrewshire Local Development Plan 2 and the terms of the Supplementary Planning Guidance: Barrhead South Master Plan as it does not provide on-site affordable housing provision.
4. The proposal is contrary to Policy 20 of National Planning Framework 4 and contrary to Policy D4 of the adopted East Renfrewshire Local Development Plan 2 as it would lead to the loss of a significant area of the green network within the Dams to Darnley Country Park. This would be to the detriment of the character and amenity of the wider area and detract from the setting of the country park.
5. The proposal is contrary to Policy 6 (Forestry, woodland and trees) of National Planning Framework 4 and contrary to Policy D7 of the adopted East Renfrewshire Local Development Plan 2 as it would give rise to a significant loss of established trees, to the detriment of the character and amenity of the area.
6. The proposal is contrary to Policy 7 (Historic assets and places) of National Planning Framework 4 and contrary to Policies D14 and D15 of the adopted East Renfrewshire Local Development Plan 2 as it would give rise to an unacceptable impact on the setting of the listed building given the design, scale and proximity of the development to Lyoncross farm house and the significant tree loss.
7. The proposal is contrary to Policy 14 of the National Planning Framework 4 and contrary to Policy D1 of the adopted East Renfrewshire Local Development Plan 2 as

the proposed development would: i) be highly visible and break the skyline when viewed from the north-west along Aurs Road and from the adjacent Dams to Darnley Country Park; and ii) give rise to a significant loss of established tree cover, both to the detriment of the character and amenity of the area and of the wider Barrhead South master plan area.

- 8. The proposal is contrary to Policy D9 of the adopted East Renfrewshire Local Development Plan; the terms of the Supplementary Planning Guidance: Barrhead South Master Plan; and the Supplementary Planning Guidance: Dams to Darnley Country Park, as the residential development would sever a key proposed active travel route through Barrhead South SDO site.

ADDITIONAL NOTES:

None.

ADDED VALUE:

None

BACKGROUND PAPERS:

Further information on background papers can be obtained from Mr Derek Scott on 0141 577 3001.

Ref. No.: 2022/0719/TP
(DESC)

DATE: 7th February 2024

DIRECTOR OF ENVIRONMENT

REPORT OF HANDLING

Reference: 2023/0321/TP

Date Registered: 30th May 2023

Application Type: Full Planning Permission

This application is a Major Development

Ward: 5 -Newton Mearns South And Eaglesham

Co-ordinates: 251841/:652619

Applicant/Agent:

Applicant:

Broom Estates Investments LLP

Tay House

300 C/o North Planning &

Development

Bath Street

Glasgow

Scotland

G2 4LH

Agent:

David Campbell

Tay House

300 Bath Street

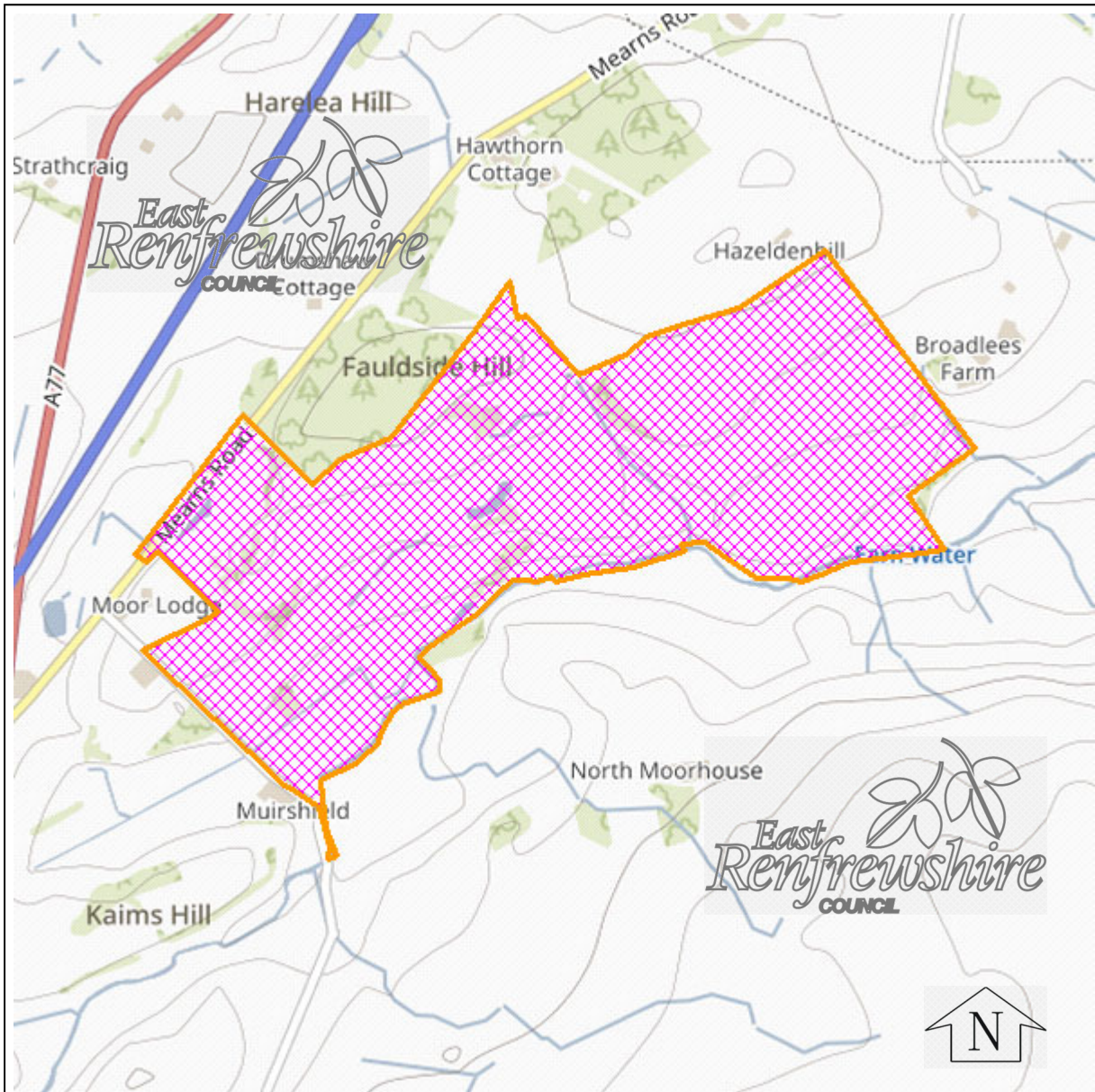
Glasgow

Scotland

G2 4LH

Proposal: Remodelling works to alter existing golf course to 12-holes, erection of new golf clubhouse/pavilion, development of woodland retreat, erection of three dwellinghouses, formation of new access and other ancillary works.

Location: Eastwood Golf Club
Langlee Road
Loganswell
Newton Mearns
East Renfrewshire
G77 6RX



DO NOT SCALE

Reproduced by permission of Ordnance Survey on behalf of HMSO. (C) Crown Copyright and database right 2023. All Rights Reserved. Ordnance Survey License number AC0000811675 2023, East Renfrewshire Council

CONSULTATIONS/COMMENTS:

Broom, Kirkhill And Mearns Kirk Community Council	Indicates support for the proposal.
East Renfrewshire Council Principal Strategy Officer (Planning Obligations Lead)	Recommends that if the Council are minded to grant this application, any decision should be subject to appropriate phasing conditions to ensure that the proposed works to the golf course are completed and the golf course operational prior to any work commencing on the three residential plots. Any future planning application for a further dwelling within the application site will be considered as a fourth dwelling at the site for the purposes of considering all LDP2 policies including affordable housing and development contributions policies.
East Renfrewshire Council Roads Service	No objection subject to conditions on visibility splays.
East Renfrewshire Council Environmental Health Service	No objection subject to conditions.
Sport Scotland	No objection subject to the provision of the golf course works prior to the delivery of the housing.
Scottish Environment Protection Agency (SEPA)	No response at time of writing
Scottish Water	No objection, although further investigation into capacity will be carried out by Scottish Water upon receipt by them of an application to connect to the water supply. Private waste water treatment options will be required.
West Of Scotland Archaeology Service	No objection subject to a condition requiring the implementation of a programme of archaeological works.

PUBLICITY:

16.06.2023 Evening Times Expiry date 30.06.2023

SITE NOTICES: None.

SITE HISTORY:

2003/0295/TP Erection of maintenance shed, erection of players Approved Subject to Conditions 27.08.2003

shelter and regrading of
access track

2004/0310/TP	External alterations to form 2 door openings and formation of external stairs; Alterations to parking area	Granted	13.05.2004
2021/0947/TP	Remodelling works to alter existing golf course to 12-holes, erection of new golf clubhouse/pavilion, development of woodland retreat, erection of 6 dwellinghouses, formation of new access and other ancillary works.	Refused	09.11.2022

REPRESENTATIONS: Forty-seven representations have been received, all indicating support for the development.

DEVELOPMENT PLAN:

The relevant policy documents can be found at the following links:

National Planning Framework 4:

<https://www.gov.scot/publications/national-planning-framework-4/>

Local Development Plan 2:

<https://www.eastrenfrewshire.gov.uk/ldp2>

SUPPORTING REPORTS:

Archaeological Desk Based Assessment – Details the methodology and results of an archaeological desk-based assessment and site walkover survey and assesses evidence for past human use of the area. The assessment indicates the site has limited archaeological sensitivity, however the nature of the site as a golf course raises the potential for the survival of previous unrecorded remains. Recommends the implementation of a programme of archaeological evaluation works.

Design and Access Statement – Describes the site, its context and the proposed development. Concludes this is a unique opportunity to save the existing golf course and that the associated development will be sensitively integrated into the existing setting.

Flood Risk Assessment and Drainage Strategy - Describes the existing hydrological regime and public drainage infrastructure. Makes an assessment of flood risk and details the proposed drainage strategy. Effluent from the club house, woodland retreat and from each of the housing plots will be treated on site and discharged via soakaways to local watercourses. This will be subject to SEPA and Scottish Water's approval. Concludes that the high risk land use areas in the north of the site will not be at risk from fluvial flooding. The site can be drained sustainably and will not be at an unacceptable flood risk nor will it increase flooding elsewhere.

Golf Course Design and Access – Provides a description of the concept and design proposals for the golf course element.

Ground Conditions Report – Provides a report on ground conditions following a preliminary site investigation and includes a Contamination Risk Assessment. In consideration of the site's geology, it concludes that the site is suitable for the proposed development. States that no evidence of contamination was observed.

Habitat Survey and Protected Species Assessment – Provides an assessment of habitats across the site and an assessment of the impact of the proposals on protected species. It establishes that there is low potential that any badger, red squirrel, pine martin, otter or water vole habitats will be adversely affected by the proposals. There is a negligible to low possibility that any of the trees within the site contain bat roosts. Common and Soprano pipistrelle bats were recorded as foraging within the site, however the assessment notes that all foraging habitats will be retained. There is a high likelihood of common breeding birds within the site but a low likelihood of rare or protected bird species.

Noise Impact Assessment – Makes an assessment of noise impact from the M77 on the proposed dwellings and noise impact from the plant associated with the proposed club house and woodland retreat on the adjacent dwelling at Moor Lodge and the proposed dwellings. Concludes that noise impact would not be a significant factor in assessing the application.

Planning Statement – Describes the site and its context and makes a detailed description of the proposals. Makes an assessment of the proposals against NPF4 and local planning policy. Concludes that the proposals are in line with the terms of NPF4 and local planning policy.

Tree Survey and Arboricultural Report – Provides a survey report of all trees within the application site and an assessment of the arboricultural impact of the proposed development. It concludes that the impact of the proposed development can be mitigated against to ensure that there is no detrimental long-term impact on woodland on the site and makes recommendations that the numbers of replacement trees exceeds the numbers of those felled.

Viability Statement – Provides an overview of the economic viability of the development.

ASSESSMENT:

This is a Major development under the terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 as the area of the site exceeds 2 hectares and therefore requires to be determined by the Planning Applications Committee.

Application site

The application site comprises the greater part of the former Eastwood Golf Course and lies within the greenbelt to the south of Newton Mearns, on the east side of Langlee Road. The southern boundary of the site generally follows the course of the Earn Water. The golf course, which had 18 holes, has been disused for some time although that part which lies within the application site is maintained to a degree. Access to the course and vehicular access to the car-park was from Langlee Road. The former club house and the remainder of the former golf course lie outwith the site on the west side of Langlee Road. This part of the former golf course has become overgrown. A small part of the North Moorhouse Grasslands Local Biodiversity site lies in the south of the site adjacent to the Earn Water. A right of way passes through the site. A small area in the south of the site, adjacent to the Earn Water, is identified in SEPA's flood maps as being at high risk from river and surface water flooding. The wider area is characterised by rolling open farmland, conifer plantations, and scattered settlement in the form of farm steadings and modest dwellings.

Previous Proposal

Planning application 2021/0947/TP for remodelling works to alter the existing golf course to 12-holes, erection of a new golf clubhouse/pavilion, development of a woodland retreat, erection of 6 dwellinghouses, and formation of new access and other ancillary works was refused by the Planning Applications Committee on 9 November 2022. The reasons for refusal were as follows:

1. The proposal is contrary to Strategic Policy 1 of the adopted East Renfrewshire Local Development Plan 2 as: (i) the proposed housing development and woodland retreat at this remote location in the green belt do not accord with the Council's sequential approach to development; and (ii) the erection of unplanned-for housing at this location will have a detrimental impact on the ability of the Council to provide sufficient education spaces for the resident population.
2. The proposal is contrary to Policy SG1 of the adopted East Renfrewshire Local Development Plan as: (i) the proposed housing development represents the development of a windfall site, not identified for housing development, which is contrary to Strategic Policy 1 given its unsustainable location; and (ii) the erection of unplanned-for housing at this location will have a detrimental impact on the ability of the Council to provide sufficient education spaces for the resident population.
3. The proposal is contrary to Policy D3 of the adopted East Renfrewshire Local Development Plan 2 as the proposed housing development and woodland retreat represent development within the green belt that has not been justified in terms of a site-specific locational need.
4. The proposal is contrary to Policy D3.3 of the adopted East Renfrewshire Local Development Plan 2 as the proposed housing development has not been justified in terms of being a direct operational requirement for 24-hour supervision of an existing rural business.
5. The proposal is contrary to Policy D8 of the adopted East Renfrewshire Local Development Plan 2 as the proposed housing development and woodland retreat are not located in a sustainable location and will rely heavily on car use where there is no public or active travel infrastructure.

Proposed Development

Planning permission is sought for the remodelling of the golf course to provide 12 holes; erection of a new club house and buggy store; erection of a woodland retreat; erection of 3 dwellinghouses; formation of new access; and other ancillary works. This is a similar description to the development relating to the previous application. However, in this case, the scale of the clubhouse and woodland retreat buildings has been reduced and the designs of those buildings simplified. The number of houses proposed has been reduced from 6 to 3. The use of the woodland retreat building has also been redefined principally as an outdoor children's play and activity centre.

The applicant has provided a viability statement that indicates that the three residential plots have been incorporated into the scheme as "enabling development" works to assist in the funding of the primary use of the site as an outdoor leisure and recreation facility.

To facilitate the reduction of holes from 18 to 12, the proposed works to the golf course include: the retention of eight holes as existing; the sub-division of one of the longer holes to create two shorter holes; the first hole shortened and reconfigured; and a new tenth hole formed. New tees will be formed at holes 1, 4, 5, 10 and 11 and new greens created at holes 1, 4 and 10 that will involve the careful relocation of existing greens. The green at the first hole is proposed to be relocated for safety reasons to avoid conflict with Langlee Road. The applicant proposes to operate the remodelled golf course as "pay and play" rather than as a members' club. The existing car-park is proposed to be re-used and accessed via a new priority junction from Mearns Road. Pedestrian and cycle access will be retained from Langlee Road.

The proposed club house and buggy store are located adjacent to the car-park. The proposed club house is a single storey structure and measures approximately 15.5 metres wide by 8.5 metres deep by 6 metres high to the ridge and comprises a hipped roof. The proposed buggy store is also a single storey building and measures approximately 15.5 metres wide by 6.6 metres deep by 5 metres high and comprises a mono-pitch roof. A terraced area is proposed for outdoor seating adjacent to the club house.

The proposed woodland retreat/outdoor activity play centre is located towards the north-western part of the site and is accessed via an internal site road from via the proposed access from Mearns Road. It comprises a single storey building that measures approximately 15 metres deep by 24 metres wide, by approximately 6.5 metres high with a dual pitched roof. Internally, the retreat/activity centre comprises a cafe, indoor play area/classroom and WCs. A small car-park comprising 15 spaces is proposed to be provided adjacent to the building along with external landscaped areas. To the south, east and north of the building, covering an area of 4 acres of woodland, is an extensive outdoor children's play and adventure area. It comprises several zones and includes an adventure play assault course; a zip wire; an outdoor forest kitchen; and a forest garden. The applicant has indicated that the woodland retreat will operate primarily as an outdoor activity area for pre-school, early years and primary school age children and that the internal space with the retreat building will support this on an ancillary basis.

The dwellings are proposed to be located in the west and north part of the site. The dwellings are detached and are proposed in three different sizes and styles from one and a half to two storeys. House 1 is two storeys and comprises 5/6 bedrooms; house 2 is one and a half storeys and comprises 5 bedrooms; and house 3 is two storeys and comprises 5/6 bedrooms. The dwellings are proposed to be of a pseudo-traditional style. Each of the dwellings is proposed to have a one and a half storey 3-car garage with ancillary accommodation above in the form of a studio/home office. This would be considered as a "windfall" residential development as it is not included as a housing site in the adopted LDP2. The dwellings will be accessed by new internal site roads, again via the proposed priority access from Mearns Road. Acoustic barriers are proposed to be erected at house plots 2 and 3 in accordance with the Noise Mitigation Report. The applicant advises those will take the form of acoustic timber fences set on raised mounds formed to minimise the height of the fences. The mounds will be planted with native species to help obscure the fences and retain the rural nature of the setting.

The applicant advises that the landscaping and tree planting proposals for the entire application site will incorporate native tree specimens, hedging and wildflowers, all selected to enhance the rural setting and develop biodiversity. Some tree felling is required to facilitate the proposals however those trees affected are predominantly non-native conifers.

National and local planning policy

The application requires to be assessed with regard to the Development Plan which comprises National Planning Framework 4 (NPF4) and the East Renfrewshire Local Development Plan 2 (LDP2).

National Planning Framework 4 (NPF4)

The policies most relevant to this proposal in NPF4 are:

Policy 1 (Tackling the climate and nature crises); Policy 2 (Climate mitigation and adaption); Policy 3 (Biodiversity); Policy 4 (Natural places); Policy 5 (Soils); Policy 6 (Forestry, woodland and trees); Policy 7 (Historic assets and places); Policy 8 (Green belts); Policy 9 (Brownfield, vacant and derelict land and empty buildings); Policy 12 (Zero waste); Policy 13 (Sustainable transport); Policy 14 (Design, quality and place); Policy 15 (Local living and 20 minute neighbourhoods); Policy 16 (Quality homes); Policy 20 (Blue and green infrastructure); Policy 21 (Play, recreation and sport); Policy 22 (Flood risk and water management); Policy 23 (Health and safety) and Policy 29 (Rural Development).

Policy 1 (Tackling the climate and nature crises) states that when considering all development proposals significant weight will be given to the global climate and nature crises.

Policy 2 (Climate mitigation and adaption) states a) that development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and b) will be sited and designed to adapt to current and future risks from climate change.

Policy 3 (Biodiversity) states:

"a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention.

d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration."

Policy 4 (Natural places) states at a) that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.

Policy 5 (Soils) states: "a) development proposals will only be supported if they are designed and constructed in accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and in a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing."

Policy 6 (Forestry, woodland and trees) states at a) that development proposals that enhance, expand and improve woodland and tree cover will be supported.

Policy 7 (Historic assets and places) states at o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Policy 8 (Green belts) states that development proposals within a green belt designated within the LDP will only be supported if they are for uses appropriate to the rural location, including outdoor recreation, play and sport or leisure and tourism uses.

Policy 9 (Brownfield, vacant and derelict land and empty buildings) states that development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

Policy 12 (Zero waste) b) states that development proposals will be supported where they reuse existing buildings and infrastructure.

Policy 13 (Sustainable transport) states that development will be supported where it can be demonstrated that sustainable transport requirements have been considered and where it provides easy access to walking and cycling networks, cycle parking and EV charging points.

Policy 14 (Design, quality and place) states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.

Policy 15 (Local living and 20 minute neighbourhoods) states that development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area.

Policy 16 (Quality homes) states:

f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

i. the proposal is supported by an agreed timescale for build-out; and

ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;

iii. and either:

delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or the proposal is consistent with policy on rural homes; or the proposal is for smaller scale opportunities within an existing settlement boundary; or the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

Policy 20 (Blue and green infrastructure) seeks to protect the existing green and blue infrastructure. The policy requires that development proposals that include new or enhanced blue and/or green infrastructure will provide effective management and maintenance plans covering the funding arrangements for their long-term delivery and upkeep, and the party or parties responsible for these.

Policy 21 (Play, recreation and sport) seeks to protect existing facilities and states at g) that development proposals that include new or enhanced play or sport facilities will provide effective management and maintenance plans covering the funding arrangements for their long-term delivery and upkeep, and the party or parties responsible for these.

Policy 22 (Flood risk and water management) seeks to ensure that new development is not at risk from flooding and the development does not increase flood risk elsewhere.

Policy 23 (Health and safety) states that development proposals that will have positive effects on health will be supported. This includes proposals that incorporate opportunities for exercise. It also states that proposals that are likely to have adverse effects on air quality or noise; or proposals within the vicinity of major hazard sites or pipelines will not be supported.

Policy 29 (Rural development) states that development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. They should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location.

East Renfrewshire Local Development Plan 2

The spatial objectives of LDP2 are: Creating Sustainable Places and Communities; Promoting Sustainable and Inclusive Economic Growth; and Promoting a Net Zero Carbon Place.

Strategic Policy 1: Development Strategy - Strategic Policy 1 sets out the development strategy for East Renfrewshire. It can be summarised as: regeneration, consolidation and environmental enhancement of the urban areas; development of the master-planned sites; infill development within the rural settlements; protection and enhancement of the green belt; and sustainable and inclusive economic growth and community benefits in both the urban and rural areas.

Policy D1 relates to all development and states that development should, among other things, not result in a significant loss of character or amenity to the surrounding area and demonstrate that safe and functional pedestrian, cycle and vehicular access and parking facilities have been provided.

Policy D3 relates to development in the green belt. It states that development in the green belt will be strictly controlled and limited to that which is required and is appropriate for a rural location. It further states that proposals in the green belt will be considered favourably where they relate to agriculture; forestry; countryside recreation and active travel; outdoor leisure and tourism; and renewable energy. It also states that any proposal that involves a business which requires a new building will have to demonstrate that it is established and/or viable for a minimum period of three years at that location.

Policy D3.3 states that new build dwellings in the green belt will only be permitted where it can be demonstrated that they are justified against the following:

- there is no available existing house or no available traditional building suitable for conversion (as per policy D3.1); and
- for workers engaged in existing rural businesses as supported under policy D3, where it is demonstrated that there is a direct operational requirement for 24-hour supervision.

Policy D6 relates to open space requirements in new residential developments and sets out minimum open space standards of 10sq. m. per habitable room.

Policy D7 states that the Council will protect and enhance natural environmental features including Local Biodiversity Sites. It indicates a strong presumption against development on or adjacent to Local Biodiversity Sites.

Policy D8 states that development should be directed to sustainable locations where the need to travel is reduced and where active travel and public transport infrastructure already exists.

Policy D9: Access states that the Council will protect, enhance and extend existing and proposed outdoor access networks, including rights of way.

Policy SG1: Housing Supply, Delivery and Phasing states that proposals for housing on both allocated sites and on windfall sites not identified for housing, will require to comply with Strategic Policies 1 and 2 and Policy D1 and any other relevant policies of LDP2.

Policy SG5: The Council will support the development of a strong and competitive local economy and the creation of a skilled workforce.

Policy SG7: Local Employment and Skills requires major development proposals to contribute to inclusive economic and social growth by providing employment, skills development, apprenticeships, and other education and training opportunities, in both the construction, supply chain and end-use phases, targeted for local people.

Policy SG9: Tourism and the Visitor Economy states that the Council supports the protection and enhancement of a network of tourist, arts and cultural attractions/facilities, infrastructure and accommodation for resident's visitors and businesses, across the Council Area.

Policy E1: Sustainable Design states that developments must incorporate sustainable and energy efficient design construction methods and be built to a minimum of silver sustainability standard.

Policy E7: Flooding states that the Council will take a precautionary approach to flood risk from all sources. At all times avoidance will be the first principle of flood management.

Detailed Assessment

Having regard to the provisions of the development plan, the determining issues in this case are: the principle of the development in the greenbelt; the impact on the character and amenity of the rural area and road safety; impact on climate change; impacts on biodiversity, soils and trees; impact on health; and economic impacts.

Principle of the development in the greenbelt

The remodelling and re-use of the former golf course; and the erection of the ancillary club house building and buggy store, facilitate the re-use of a previously developed golf course, allowing the return to use of a significant local recreational asset. It is therefore considered that this aspect of the proposal is acceptable in principle. The supporting statements and the submitted drawings indicate that the proposed woodland retreat is primarily an outdoor recreation, play and leisure facility. Given the former use of the site as a golf course, the proposal would not compromise the function of the green belt. Both the golf course and the proposed woodland retreat, the latter's scale and reliance on the existing woodland being considered, are appropriate green belt uses as set out in Policy 8 of National Planning Framework 4 and in Policy D3 of the adopted East Renfrewshire Local Development Plan 2. Those aspects of the proposal are therefore considered to be acceptable in principle in the green belt and raise no conflict with the terms of Policy 8 of National Planning Framework 4, part 6 of Strategic Policy 1 and Policy D3 of the adopted East Renfrewshire Local Development Plan.

As noted above, the applicant has submitted a viability statement that indicates that the three dwellings have been incorporated into the scheme as "enabling development" to assist in the funding of the primary use of the site as an outdoor leisure and recreation facility. It makes an assessment of the viability of the "policy compliant" uses and then an assessment of the residential "enabling use" to demonstrate the viability of the scheme when this use is incorporated into the scheme. The methodology for this approach is assessed in line with guidance prescribed by the RICS. The viability assessment concludes that in order for the golf course and woodland retreat to be delivered, the enabling residential use is required to cross-subsidise its delivery. Having considered the viability assessment, the Planning Service accepts that without the funding provided by the development of three dwellings, it is unlikely that the proposed development would take place and therefore the golf course would likely remain dormant and the associated benefits of the development would not be delivered. It is also recognised that the proposed number of dwellings has been reduced from six in the previous application to three, as currently proposed. As such, it is considered that the proposed number of dwellings is the minimum required to facilitate the development. It is considered that, whilst the erection of the three dwellings does not accord with the strict terms of the Policies 8 and 16 of NPF4, or with the Council's development strategy in terms of the sequential approach and Policy D3 in relation to development in the greenbelt, there are significant material considerations in this instance which support the proposal and are set out in more detail below.

As stated above, the applicant has submitted supporting information that states the proposal can be considered as enabling development. In this regard, as the proposal would not prevent the loss of a listed building or other historic asset (rather a golf course), it does not clearly fall within the parameters of an enabling development, as defined in NPF4 and LDP2. Despite this, it is recognised that retaining a long standing golf course, where possible, is beneficial to the local community.

It should be noted at this point, that the applicant has agreed to the phasing of the development to ensure the works to the golf course and woodland retreat etc. are completed prior to the erection of the dwellings. An appropriate condition can be attached to any planning permission granted to ensure the works are phased accordingly.

The re-use and development of the existing golf course is also consistent with the aims of Policies 9 and 12 of NPF4.

Impact on the character and amenity of the rural area and road safety

The proposed remodelling works to the golf course; the proposed club house building and buggy store; and the proposed woodland retreat building are considered to be acceptable in appearance. The club house building, buggy store and woodland retreat building are relatively low profile buildings and would not be dominant or incongruous features in the wider landscape when viewed from within or from out with the site. It is also noted that the proposed landscaping proposals show a significant amount of new tree planting around the area of the woodland retreat/outdoor activity and play centre. The timeous provision of the new planting and other landscaping can be secured by condition if the application is approved.

The proposed dwellings, whilst relatively large, are considered to be acceptable in appearance. It is noted that additional tree planting and landscaping is proposed in the vicinity of the proposed dwellings and that they are sited to ensure they do not break the skyline. Given the local topography and the proposed landscaping, views of the proposed dwellings would be localised and would not result in significant visual impacts. It should also be noted that the reduction in the number of dwelling by 50% when compared with the previous application 2021/0947/TP, has further reduced their visual impact. It is also considered that a condition can be attached to any planning permission granted to restrict permitted development rights within the domestic curtilages to require any extensions or outbuildings to be subject to planning permission. This will ensure the Council can control development within the large domestic curtilages in the interest of the character and amenity of the rural area.

The Roads Service has indicated no objection to the proposal subject to conditions that can be attached to any planning permission granted.

It is therefore considered that the proposal raises no significant impact with Policy D14 of NPF4 or Policy D1 of LDP2.

Impact on climate change

Whilst the application site is located within the greenbelt, it is nevertheless located in proximity to the southern edge of Newton Mearns. It is accepted that golf courses, by their nature, tend to be car-dependent and require rural locations and that they are not always the most sustainable form of development or fully comply with the aims of local living for those reasons. However in this instance, whilst the application site is located within the greenbelt, it is nevertheless located in proximity to the southern edge of Newton Mearns and the proposal allows some combined activities close to the settlement edge. It is also recognised that a golf course operated on the site until relatively recently and that the proposal will bring economic and health benefits to East Renfrewshire residents.

The change of format from membership based golf course to pay per play would not in itself be considered as development that requires planning permission. Given this context, the main additional vehicle movements associated with this assessment are considered to be the three dwellings and woodland retreat. Given the modest number of dwellings proposed, it is not considered that they would give rise to a significant number of additional vehicle movements. The woodland retreat would also result in additional movements but it is concluded that the level would not be significant given the scale of the proposals. Overall, the benefits of the proposal in terms of sport/recreation and economic benefits are considered to outweigh any concerns over the sustainability of the site. It is recognised that there will be some tree loss at the site (please see below for more detail), however, given the scale of replacement works and the findings of the tree survey in relation to the condition of trees, the proposals will result in a more nature orientated site than the situation before development.

In terms of sustainable transport, the proposal represents the re-use of an existing, dormant golf course on the in proximity to the urban edge. It is noted the golf course and the woodland retreat would be the main traffic generating uses. The entrance to the site would be in close proximity to the dedicated A77 cycle lanes and the applicant proposes to provide 14 cycle spaces and 7 EV charging spaces at the club house and 10 cycle spaces at the woodland retreat building.

Given the above, the proposal is considered to raise no significant conflict with Policies 1, 2, 13 or 15 of NPF4.

Impacts on biodiversity, soils and trees

It is noted that part of the North Moorhouse Grasslands Local Biodiversity Site (LBS) occupies a small area in the southern part of the site, adjacent to the Earn Water. However, no physical works are proposed within or within the immediate vicinity of the LBS area. The proposals will not therefore have a material impact on the LBS or compromise its overall integrity. Notwithstanding, the applicant has submitted an extended Phase 1 Habitat Survey and Protected Species

Assessment in support of the application. The assessment confirms that although there is potential for badger, red squirrel, pine marten, otter and/or water vole to be found on the site, there is a low potential for these to be detrimentally impacted by the proposals. Similarly, the report indicates that there is a negligible to low potential that the trees within the site contain bat roosts and that, as habitats that are suitable for bat foraging will be retained within the site, the site will remain favourable for bats. The report also finds that there is a low likelihood of rare or protected species of birds within the area, but recommends that work involving vegetation clearance should take place outwith the nesting season.

The applicant's agent has advised that 1050 trees were recorded within the site as individual trees or as groups. It is proposed to fell 110 category C trees, 4 category U trees, and 46 category B trees, thus retaining 85% of the trees within the site.

The Habitat Survey also considers trees and confirms that although some limited felling is proposed, this will be predominantly of non-native conifers and for arboricultural reasons relating to the health and quality of the trees. In terms of the re-planting proposals that are indicated on the landscaping plan, the applicant's agent has confirmed that this consists of 535 individual trees; 10400 woodland trees at whip size; 2465 hedgerow/small woodland plants at whip size; 250 riparian plants; and 20200 sqm. of meadow grass planting. As significant native replacement and re-planting is proposed, it is considered that there will be no long-term detrimental impact to the tree cover on the site.

The Survey also confirms that the limited loss of semi-improved grassland will be mitigated by the creation of areas of species-rich wildflower meadows elsewhere within the site. Policy 3 of NPF4 requires that proposals for major development demonstrate that the proposal will conserve, restore and enhance biodiversity. Given the above and the applicant's proposals to remove non-native conifers from the site and the proposed native replacement and additional tree-planting, it is considered that the biodiversity of site will not be materially adversely impacted. The significant native replanting and the creation of wildflower meadows ensures that the proposal represents an enhancement of biodiversity on the site.

The proposal is therefore considered to comply with the terms of the Policies 3, 4 and 6 of NPF4 and Policy D7 of the adopted LDP2.

In terms of soils, the application site comprises works to a dormant golf course and the erection of only a limited number of buildings within it. The site does not include any prime quality agricultural land, carbon rich soil or priority peatland. The proposal therefore raises no conflict with Policy 5 of NPF4.

Impact on health

The proposed golf course and woodland retreat/outdoor activity centre will provide opportunities for a range of exercise across all age groups. It is further recognised that the pay per play format and shorter golf course will widen the accessibility of golf in this area to nearby residents who may not wish to be members of a golf course but still seek to play a golf course or have less time to play 18 holes. Further, it is noted that there are no objections from SportsScotland and Scottish Golf consider that the proposals would support a more accessible, family, junior and senior orientated course thereby diversifying golf provision for the community in the area.

The proposal facilitates the re-use of an existing facility and as such, no material air quality or noise impacts are considered to affect the wider area as a result. It is also noted that the proposal does lie within the vicinity of major accident hazard site or pipeline. The proposal is therefore consistent with the aims of Policy 23 of NPF4.

Economic benefits

The proposed development represents the opportunity to reuse a dormant golf course. The development will have positive benefits for local supply chains and services, will create and support local jobs and will support the development and growth of a golf course and outdoor activity centre for use by members of the public.

The applicant's agent has advised that the remodelled golf course will generate 4 to 6 permanent full and part time green keeping jobs, plus coaching opportunities. The agent further advised that the new clubhouse will provide approximately 8 full time and 20 part time jobs and the woodland retreat/outdoor activity centre will generate approximately 6 full time and 8 part time jobs.

It is recognised that there is likely to be a market in the local area for golf based recreation, which is more informal than a traditional golf course, shorter in duration and combines with other activities. Given that Eastwood Golf Club went into administration and ceased operating as a traditional member based club, it is considered that the proposed development represents an opportunity to bring this recreational facility back into use and allow the creation of a sustainable business. The proposals are considered to align with policy 29 (Rural development) of NPF4 in respect of the acceptable landscape impacts, biodiversity enhancements and positive benefits to health from the proposals. While it is recognised that the development is located in the greenbelt, the close proximity to Newton Mearns and public transport linkages is noted, as are the economic opportunities offered from this proposal. The proposal is also consistent with the aims of Policy SG9 of LDP2 as it facilitates the re-use of a dormant golf course and brings forward additional facilities in the form of the woodland retreat/outdoor activity centre.

Consideration of previous refusal of planning permission

In terms of the previous reasons for refusal, it is considered that the key changes in terms of the assessment of the proposal are the reduction from six houses to three houses; further clarification on the operation and function of the woodland retreat; and additional information submitted on biodiversity enhancement proposals. It is accepted that the provision of three houses still does not accord with the Council's strategic approach to development and sustainability as set out in Strategic Policy 1, Policy SG1 and Policy D3 and D8 of LDP2. In this regard, it is recognised that any level of development in the form of housing which is provided to facilitate this type of leisure development, will not meet the objectives of directing new development to sustainable locations, such as in urban areas. However, it is noted that development in the greenbelt in certain circumstances can meet policy objectives, particularly where there are wider benefits such as tourism or economic development. It is therefore necessary to consider whether a reduction in half of the number of dwellings is a sufficient material change in the proposal to allow reconsideration of the acceptability of the proposed housing. In terms of the reduction in traffic movements resulting from the proposed housing, it is considered that a 50% reduction is significant. It is further considered that the level of built development and associated visual impacts has been reduced substantially and the woodland retreat has been clarified as primarily relating to outdoor recreation. Taking these factors into account and the benefits of the development as outlined in this report, it is concluded, on balance, that there are sufficient material considerations in favour of the development that outweigh the previous concerns over compliance with Strategic Policy 1, Policy SG1 and Policy D8 of LDP2, as set out as reasons for refusal 1, 2 and 5.

In relation to impact on education provision (reasons 1 and 2), Strategic Policy 1 states that proposals for windfall sites will be required to provide the required infrastructure resulting from development in accordance with Strategic Policy 2 and not prejudice the delivery of allocated sites. Although it is noted that there is potential for the three large dwellings to have an impact on the education estate, as the number of dwellings proposed is less than 4 (as set out in the Council's Supplementary Guidance: Development Contributions), Strategic Policy 2 of the current local development plan does not apply and as a result development contributions will not be required for the revised scheme. Therefore, the proposal is no longer in conflict with Strategic Policy 2 of LDP2 in terms of infrastructure provision.

Further reasons for refusal (reasons 3 and 4) related to Policy D3 and D3.3 of LDP2 in terms of a lack of site specific locational need and requirement for 24 hour supervision in relation to the proposed housing and woodland retreat. While it is accepted that the housing does not comply with the terms of D3 and D3.3, the 50% reduction in housing numbers has reduced concerns over the scale of development in the greenbelt and, taking all other factors into account, the overall benefits of the development are considered to outweigh the concerns over compliance with Policies D3 and D3.3. Given the revised woodland retreat proposals, there is considered to be no conflict with this aspect of the development in respect of Policies D3 and D3.3.

Other relevant matters

It is noted that the Principal Strategy Officer (Development Contributions Lead) has raised concerns that due to large application site and proposal for housing to facilitate the development, it is possible that the applicant or a further applicant could seek to provide more housing on the site. For this reason, phasing details have been agreed and can be conditioned to ensure that the golf course and associated works are completed prior to the construction of any housing at the site. Further, given the green belt location, the applicant has been made aware that any further housing at the site would be contrary to green belt policies and as such would be resisted by the Planning Service.

As noted above, a small area in the south of the site, adjacent to the Earn Water, is identified in SEPA's flood maps as being at high risk from river and surface water flooding. Upon consultation, the Roads Service as the flooding authority and SEPA offer no adverse comment on the proposal. As no remodelling work or other development is proposed within the areas identified as being at risk to flooding, the proposal is considered to raise no conflict with Policy 22 of NPF4 or Policy E7 of LDP2.

The Right of Way through the site is proposed to be realigned to pick up the proposed access roads and tracks through the site. Upon completion of the remodelling works, access to the Rights of Way through the site would remain. A condition can be attached to the planning permission to ensure the continued safe access during the works. The re-routing of the Rights of Way is also subject to separate processes under countryside access legislation. The proposal therefore raises no conflict with Policy 9 of the adopted LDP2.

Given the nature of the proposals, it is not considered that the development would have a significant impact on green or blue infrastructure. The proposal therefore raises no conflict with Policy 20 of NPF4. If the application is approved, a detailed management and maintenance plan covering the funding arrangements for the long-term maintenance and upkeep of the golf course and woodland retreat, and the party or parties responsible for these can be secured by condition.

Representations

The comments in support are noted and substantiate the view that the re-use of the golf course would be a welcome asset to the community. It is noted that there have been no objections to the proposals from members of the public.

Overall conclusion

In conclusion, the remodelling works to the golf course, the erection of the club house and buggy store; the erection of the woodland retreat and formation of the outdoor activity centre; and the formation of the access off Mearns Road are considered to comply with the terms of the development plan. It is accepted however that that erection of the three dwellings does not fully comply with the terms of Policy 8 of NPF4 and Strategic Policy 1 and Policies D3 and D3.3 of LDP2.

The applicant has nevertheless provided information that indicates the wider proposal to re-use the golf course and provide the club house, buggy store, woodland retreat and outdoor activity centre would only be viable with the erection of the three dwellings.

It is therefore considered that there are several material considerations of relevance in this instance and notwithstanding the policy conflicts referred to above, the proposal can be granted planning permission as an exception to the terms of Policy 8 of NPF4 and Strategic Policy 1 and Policies D3 and 3.3 of LDP2 for the following reasons:

1. The applicant has demonstrated that a minimal amount of residential development is necessary to secure the redevelopment of the dormant golf course and the formation of the woodland retreat/outdoor adventure facility, both of which are uses compliant with Policy 8 of NPF4 and Policy D3 of LDP2.

2. The proposal will provide economic benefits to the area including job creation and supply chain benefits and will make a contribution towards the local tourism and visitor economy in line with Policy SG5 and Policy SG9 of LDP2.
3. The proposal provides biodiversity benefits and a significant net gain in tree cover/native planting all of which is in compliance with Policies 3, 4 and 6 of NPF4 and Policy D7 of LDP2.
4. The proposal provides health benefits to the community in line with Policy 23 of NPF4 and will bring a redundant golf course back into use.

It is therefore recommended that the application is granted subject to the conditions set out below.

RECOMMENDATION: Approve subject to conditions

- 1 The development hereby approved must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted.

Reason: To comply with the provisions of section 58 of The Town and Country Planning (Scotland) Act 1997, as amended.

2. Notwithstanding the terms of Class 1 and Class 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), no development shall take place within the curtilages of any of the dwellings hereby approved without the benefit of planning permission.

Reason: To ensure the Council can control future development within the domestic curtilages in the interest of the character and amenity of the rural area.

3. No development shall commence relating to the erection of the dwellinghouses until such time as the works to the golf course; the erection of the club house; the erection of the woodland retreat; the formation of the outdoor activity centre; and the formation of the access onto Mearns Road have been completed and the golf course is operational.

Reason: In order to ensure a properly programmed development and to ensure that the material benefits of the development are delivered.

4. Development shall not commence on any phase or element of the development until details of materials to be used on all external surfaces relating to that phase have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: To ensure the development is acceptable in appearance.

5. Development shall not commence on any element or phase until details and location of all walls (including retaining walls) and fences to be erected in respect of each phase have been submitted to and approved in writing by the planning authority. This shall include details of the acoustic barrier to be erected at housing plot 1. Thereafter the development shall be implemented in accordance with the approved details.

Reason: To ensure the development is acceptable in appearance.

6. Development shall not commence in any phase until the trees indicated for retention in the Tree Survey and Arboricultural Impact Assessment dated November 2021, submitted in support of this application; and as shown on the approved Landscaping Strategy Drawings reference numbers 640.01.LS01b; 640.01.LS02b; 640.01.LS03b; and 640.01.LS04b have been protected by suitable fencing. The fencing shall be erected on at least the fullest extent of the canopy on broadleaf trees and half the height of conifer trees as set out in BS3998/2010 and BS5837/2012. The location and type of fencing shall be as set out in the afore-mentioned British Standards (BS3998/2010 and BS5837/2012) and as indicated in the Tree Survey and Arboricultural Impact Assessment dated November 2021 and on the approved Landscaping Strategy Drawing 640.01.LS01b. Thereafter the approved tree protection measures shall be fully implemented on site and remain in position throughout the construction of the development.

Reason: To protect the existing trees and shrubs so that they continue to contribute to the environmental quality of the area and soften the impact of the development.

7. The development shall be landscaped in accordance with the approved drawings 640.01.LS01b; 640.01.LS02b; 640.01.LS03b; and 640.01.LS04b as follows:-
- a) Completion of the scheme during the first planting season following the completion of each phase in accordance with condition 2 above
 - b) Maintenance of the landscaped areas for a period of five years. Any trees, shrubs or areas of grass which die, are removed, damaged or diseased within 5 years of the completion of the landscaping shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure the implementation of a satisfactory scheme of landscaping to improve the environment quality of the development.

8. Prior to the commencement of development of the woodland retreat, full details of the adventure/outdoor play equipment shall be submitted and approved in writing by the Planning Authority. Thereafter, this aspect of the development shall be completed in accordance with the approved details.

Reason: To ensure the implementation of a satisfactory scheme in the interest of the proper planning of the area.

9. The woodland retreat building shall be used principally to support the outdoor play and adventure activities proposed on the site. It shall not be used for any other purpose unless otherwise agreed in writing on an occasional or ad-hoc basis by the Planning Authority.

Reason: To ensure it is a suitable form of development in the green belt.

10. Visibility splays of 2.5 metres by 215 metres as shown on the approved drawing 20195-SK-10 shall be provided in both directions at the junction of the new access with Mearns Road prior to the completion of phase 1 of the development and first use of the golf course in accordance with condition 2 above; and thereafter maintained free from any obstructions exceeding a height of 1.05m above the adjacent road.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.

11. Visibility splays of 2.5 metres by 25 metres as shown on the approved drawing 20195-SK-10 shall be provided in both directions at the junction of the access to the woodland retreat with the new internal site road prior to the first use of the woodland retreat and at

all other internal site road junctions; and thereafter maintained free from any obstructions exceeding a height of 1.05m above the adjacent road.

Reason: To enable drivers of vehicles to have a clear view over a length of road sufficient to allow safe exit.

12. Visibility splays of 2.5 metres by 20 metres as shown on the approved drawing 20195-SK-10 shall be provided in both directions at the junction of the residential driveways to each housing plot with the new internal site road, prior to the occupation of each dwelling; and thereafter maintained free from any obstructions exceeding a height of 1.05m above the adjacent road.

Reason: To enable drivers of vehicles to have a clear view over a length of road sufficient to allow safe exit.

13. The car-parking areas associated with the golf course and the woodland retreat shall be formed, delineated and provided free from obstruction prior to the first use of the golf course and woodland retreat.

Reason: To ensure that adequate car-parking is provided.

14. The developer shall undertake recording of archaeological resources within the development site. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and agreed by West of Scotland Archaeology Service and approved in writing 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 in accordance with the agreed programme.

Reason: In order to identify and protect any archaeological remains and to allow the planning authority to consider this matter in detail.

15. There shall be no construction work or offloading of delivered materials at the development site outwith the hours of 0800 to 1900 Monday to Friday and 0800 to 1300 on Saturday with no working on Sunday or local or national public holidays unless minor and temporary amendments have been otherwise agreed in advance in writing by the planning authority. The starting up/warming up and shutting down of any construction machinery outwith these hours shall not be audible from the boundary of any noise sensitive property.

Reason: To prevent noise nuisance to the surrounding area.

16. Noise from the proposed development and any associated equipment shall not exceed residential Noise Rating Curve 25 (as described in BS 8233 2014) between the hours of 2300 and 0700 and NR Curve 35 between 0700 and 2300 hrs, as measured from any neighbouring residential property.

Reason: To prevent noise nuisance to the surrounding area.

17. Between the hours of 0800 and 2000 the measured noise level emitted from the premises (LAeq (1hour)) shall not exceed the pre-existing background noise level (LA90 (1/2hour)) by more than 4dB (A) when measured in accordance with BS4142:2014 at buildings where people are likely to be affected. Between the hours of 2000 and 0800 the noise emitted from the premises (LAeq (5mins)) shall not exceed the pre-existing background noise level (L A90 (1/2hour)) by more than 4dB(A) when measured in accordance with BS4142:2014 at buildings where people are likely to be affected.

Reason: To prevent noise nuisance to the surrounding area.

18. Prior to the commencement of any work on site, a detailed management and maintenance plan, covering the funding arrangements for the long-term maintenance and upkeep of the golf course and woodland retreat, and the party or parties responsible for these, shall be submitted and approved in writing by the Planning Authority. Thereafter, the golf course and woodland retreat shall be maintained in accordance with the approved management and maintenance plan.

Reason: To ensure the on-going upkeep and maintenance of the facilities in the interest of the amenity of the area.

19. The principles of Sustainable Urban Drainage Systems (SUDS) for the surface water regime shall be incorporated into the development. Development shall not commence until details of the surface water management and SUDS proposals have been submitted to and approved by the planning authority. Thereafter, the surface water management details shall be fully implemented as approved. For the avoidance of doubt, the discharge rate for the development shall not exceed 8l/s/ha.

Reason: In the interests of sustainable development.

20. Prior to commencement of the development, a scheme shall be submitted to and approved by the Planning Authority setting out the measurements that have been or will be put in place within the site as required by the Local Development Plan2 Policy E1. The said scheme shall include any phasing details as necessary. Thereafter the scheme shall be implemented as approved.

Reason: In order for the Planning Authority to consider these matters further and to ensure the development complies with the Local Development Plan2.

ADDITIONAL NOTES:

For clarification, the development hereby approved is for the golf course redevelopment, associated works and specific dwelling designs as detailed on the approved drawings. Please note that any future planning application for a revised dwelling design, which may be submitted in isolation from the proposed golf course will be assessed anew against the terms of the development plan. Please note, the development hereby approved does not prejudice the consideration of any future application on the site and does not bind the Council to any particular course of action. You are therefore advised to seek advice from the Planning Service before considering revised house design proposals at the site.

Any future planning application for a further dwelling within the application site will be considered as a fourth dwelling at the site for the purposes of considering development contributions. Therefore, in addition to assessment against greenbelt policies and the advice given above, a further dwelling or dwellings will be assessed with regard to compliance with development contributions policies and guidance. Please note, the development hereby approved does not prejudice the consideration of any future application on the site and does not bind the Council to any particular course of action.

The applicant is advised to contact Scottish Water, Developer Services, Clyde House, 419 Balmore Road, Glasgow, G22 6NU, prior to commencing any works on site.

This development may affect a public right of way and this planning permission does not carry with it any right to close or divert a public right of way. Where a public right of way exists on or adjacent to your development site you should contact East Renfrewshire Council's Access Officer no less than four months prior to working in and around a public right of way.

In addition to planning legislation, I would draw your attention to the provisions of the Nature Conservation (Scotland) Act 2004 and the Wildlife and Countryside Act 1981 with regard to the

protection of Wildlife and, in particular, the needs to ensure that all works are preceded by a check for nesting birds. It is a criminal offence to intentionally or recklessly damage, destroy or otherwise interfere with any wild bird nest which is in use or being built or, which, at any other time, is habitually used by certain birds protected by special penalties. Where it is proposed to carry out works which will affect European Protected Species (including bats) or their shelter/breeding places, checks should first be made by an appropriate bat surveyor. In the event a protected species would be affected a licence is required from the Scottish Government. Further information on these matters can be sought initially from Scottish Natural Heritage or Scottish Government Species Licensing Team, Countryside and Heritage Unit, Victoria Quay, Edinburgh.

The applicant is required to consult with East Renfrewshire Council Protective Services regarding compliance with the Workplace (Health, Safety & Welfare) Regulations 1992.

The applicant is required to consult East Renfrewshire Council Protective Services regarding compliance with the provisions of the Health & Safety at Work Etc. Act 1974 and the Food Safety Act 1990.

Waste materials arising from demolition/ground works on site shall be disposed of to a licensed waste management facility or to a landfill site in accordance with the Waste Management Regulations 1994 (as amended) and the Special Waste Regulations 1996.

The applicant is requested to comply with the requirements of Scottish Environment Protection Agency (SEPA).

The Developer is required to consult with East Renfrewshire Council's Development Plans Section by email to: streetnaming@eastrenfrewshire.gov.uk on proposed street naming and numbering at an early stage in the development. For more information and the charges applicable please see www.eastrenfrewshire.gov.uk/new-developments

East Renfrewshire Council Roads Service should be consulted regarding a Road Opening Permit for service connections and footway crossover.

ADDED VALUE:

Conditions have been added that are necessary to control or enhance the development and to ensure the proposal complies with the Council's Local Development Plan policies.

BACKGROUND PAPERS:

Further information on background papers can be obtained from Mr Derek Scott on 0141 577 3001.

Ref. No.: 2023/0321/TP
(DESC)

DATE: 7th February 2024

DIRECTOR OF ENVIRONMENT

BLANK PAGE

EAST RENFREWSHIRE COUNCILPLANNING APPLICATIONS COMMITTEE14th February 2024Report by Director of EnvironmentEnforcement Notice requiring the re-siting of a 15m high telecommunications mast and wraparound base units erected on Addison Road, Thornliebank, East Renfrewshire**1.0 INTRODUCTION**

- 1.1. This report is to request that Members authorise the service of a Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 as it appears to the Planning service that there has been a breach of planning control as defined by section 123 (1)(a) of said Act at the land described in the attached plan.

2.0 BACKGROUND

- 2.1 The Planning Service first received a complaint on the 23rd May 2023 in relation to a 5G telecoms mast being erected on the footpath at Addison Road in Thornliebank, in close proximity to the residential flats at 194 Carnwadric Road. The matter was investigated and a site visit was carried out that day.
- 2.2 At the time of the site visit a 15m high telecommunications mast and wraparound cabinets were currently under construction. The development was subject to a Prior Notification application (2021/0783/PN) submitted to the Council 27th September 2021. However, further investigation confirmed that approval had not been given by the Council and that WHP Telecoms Ltd (the agent working on behalf of CK Hutchison (UK) Ltd) had been informed that the application had not been registered on three separate dates prior to the invalid application being returned to them.
- 2.3 The application was considered to be invalid due to inaccurate information submitted on ownership, without which it was invalid and this was notified by the Planning Service to the agent by letter on the 29th October 2021, with follow up letters issued on the 19th November and 7th December. The agent was given until the 21st December to respond. When the agent still did not respond, the application was removed as a current application on the 23rd December, with the applicant notified on this date.
- 2.4 The applicant's agent sought to amend the application on the 19th January 2022, however by this time the application had been removed and it was not possible to make the amendment. The agent was notified of this on the 3rd February 2022.
- 2.5 Notwithstanding that there had been no valid application or consideration of the merits by the Planning Service, the applicant proceeded to erect the mast and base units without the required planning approval.
- 2.6 The telecommunication mast and base units have been erected in very close proximity to residential flats at 194 Carnwadric Road. The occupants of the flats have not had the opportunity to comment on the application as, being invalid, it was not registered. It could not therefore appear on any public website and as such neighbouring properties had no opportunity to comment or object. In the absence of a valid prior

notification application; the planning merits and effect on amenity could not be considered.

- 2.7 The mast, where erected, is approximately 7 metres from the nearest windows which is causing significant distress to local residents.

3.0 PLANNING STATUS/LEGISLATIVE BACKGROUND

- 3.1 Class 67 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 allows for the construction of new ground-based apparatus including new masts which do not exceed 30 metres in height, subject to a number of specified criteria. The criteria include a requirement for an operator to apply to the planning authority to establish whether prior approval is required. Guidance provided by the Scottish Government (Circular 2/2015) states that while new ground based masts within the specified parameters should generally be acceptable in principle in planning terms, the planning authority can impose a requirement for prior approval with regard to the siting and/ or appearance of a specific proposal.

- 3.2 The mast, therefore, did not require planning permission as a mast at the height proposed is permitted development, subject to the prior approval of the planning authority. The prior approval process for a telecoms mast is similar to a planning application in that detailed drawings, an application form (including ownership certificate) and fee are required, together with neighbour notification. What differs is that once a valid prior notification application is submitted, the planning authority has 56 days to determine whether prior approval is required or not and either approve (which can include conditions) or refuse prior approval. If the planning authority does not issue a decision within 56 days, the applicant is able to erect the mast and supporting infrastructure subject to the application. In this case, the applicant's position is that due to the 56 days from the date of their submission elapsing, they had the authority to erect the mast by virtue of no prior approval refusal notice having been received. However, as explained above, the planning authority never made the application valid and therefore did not assess the proposal or carry out neighbour notification. The Planning Service therefore considers that the mast is unauthorised as the prior approval process was not undertaken in line with permitted development legislation.

- 3.3 In terms of the impact/acceptability of this mast, Section 25 of the Town and Country Planning (Scotland) Act 1997 does not apply to applications for prior approval, so the development plan does not have primacy in decision making. Relevant policies may however be useful in providing guidance on the assessment of the impact of the siting and appearance of the mast, and therefore be a material consideration. The relevant development plan policies are 24 of the National Planning Framework 4 (NPF4) and SG8 of the Local Development Plan 2. The development plan policies generally support the provision and expansion of digital communications equipment, provided they will not result in adverse visual and amenity impacts.

- 3.4 In December 2023 the Scottish Government published planning guidance on Digital Communications, which is a material consideration and replaces previous guidance (Planning Advice Note 62: Radio Telecommunications). Of direct relevance in this case is guidance in respect of masts in urban areas, which states that "where located in suburban or residential areas, larger new masts should, where possible, be located away from direct views from main habitable windows."

4.0 ASSESSMENT AND ACTION TAKEN TO DATE

- 4.1 It is recognised that Carnwadric Road is relatively wide in this location and that the site lies in close proximity to a non-residential site (the Council's Roads Depot). It is

therefore considered that a 15m high telecommunications mast could be accommodated in this general area. However, the position chosen by the operator is considered to be unacceptable due to the adverse visual impact on direct views from the front windows of residential properties on the corner of Carnwadric Road and Addison Road.

- 4.2 Following the erection of the mast, due to the disagreement over the valid status of the application, the Planning Service initially sought to resolve this matter without commencing formal enforcement action. As such, the Council wrote to the site operator to explain that the prior approval process had not been followed and requested that the mast be removed from site and relocated to a more appropriate location. The mast operator (Three) has not agreed to remove and relocate the mast, therefore, it is considered necessary to serve an enforcement notice seeking removal and relocation of the mast.
- 4.3 It should be noted that a previous application by the applicant (2021/0359/PN) for a 20m high telecommunications mast and base units was withdrawn on the 15th July 2021. It is considered that the proposed site on the opposite side of Addison Road may be a more appropriate location.

5.0. CONCLUSIONS

- 3.1. CK Hutchison Networks (UK) Ltd have erected the 15m high mast and base units without the required prior approval.
- 5.2 Section 127 of the “Act” allows the planning authority to issue an Enforcement Notice where it appears to them that there has been a breach of planning control and that it is expedient to do so, having regard to the development plan and to any other material considerations.
- 5.3 The recipient of the Notice has the right of appeal to Scottish Ministers. If an appeal is submitted within the statutory time-scale, the Notice is held ‘in abeyance’ until the determination of the appeal.
- 5.4. The development is not acceptable to the Planning service. In order to address the unauthorised works and re-site the telecommunications mast and base units at a more acceptable location, an Enforcement Notice is considered appropriate and necessary in this case.

6.0. RECOMMENDATION

- 6.1 Members are requested to authorise the service of an Enforcement Notice requiring the re-siting of the telecoms mast and base units to a more acceptable location.

7.0 BACKGROUND PAPERS:

- 7.1 Further information on background papers can be obtained from Mr Alan Pepler on 0141 577 3001.

DATE: 7th February 2024

DIRECTOR OF ENVIRONMENT

BLANK PAGE

EAST RENFREWSHIRE COUNCILPLANNING APPLICATIONS COMMITTEE14th February 2024Report by Director of EnvironmentSection 33A notice - 29 East Kilbride Road, Busby, G76 8JY.UPDATE**1.0 INTRODUCTION**

- 1.1. This report follows the decision of the Planning Applications Committee meeting of 4th October 2023 in relation to the service of a Notice under Section 33A of the Town and Country Planning (Scotland) Act 1997, authorised by the Planning Applications Committee on 7th June 2023, in respect of unauthorised development at 29 East Kilbride Road, Busby, G76 8JY.

2.0 BACKGROUND

- 2.1 Members will recall that two timber outbuildings and a 2-metre-high fence were erected without planning permission at 29 East Kilbride Road, Busby. The unauthorised development has been the subject of complaints from adjacent residents.
- 2.2 The Planning Service wrote to the landowner and requested submission of the required planning application. This was submitted on 17th March 2023 but then withdrawn the following day, as the landowner wrongly believed planning permission was not required. An email sent from the Planning Service on the 31st March advised the landowner that formal action would be considered if a planning application were not submitted before 14th April 2023. The landowner declined to submit an application and confirmed that he was taking legal advice on the matter.
- 2.3 At its meeting on 7th June 2023, the Planning Applications Committee authorised the service of a Section 33A Notice. This is a formal notice requiring the landowner to submit the required planning application in retrospect. Whilst there are no penalty provisions for failing to comply with this notice, it constitutes enforcement action under the relevant legislation and leaves it open to the Planning Service to pursue further action in terms of an enforcement notice at any time. In addition, the notice “stops the clock” towards immunity being reached i.e. after four years following the breach of planning control, the development would otherwise become lawful and no enforcement action could be taken.

3.0 UPDATE

- 3.1 To date, the landowner has not complied with the terms of the Section 33A Notice and has refused to submit the required planning application.
- 3.2 At the Planning Applications Committee Meeting of 4th October 23, the officer recommendation was that no further action should be taken in respect of the unauthorised works undertaken at the site. The decision of the Planning Applications Committee (PAC) was to not accept this recommendation and that further

advice/guidance was to be provided to the PAC at a future meeting to enable a decision to be made on further actions.

- 3.3 Given that the Planning Applications Committee has decided that further action is required in respect of the unauthorised works, the following report provides information to Members on potential options to progress this matter. For clarification, the planning authority is not obliged to pursue enforcement action.
- 3.4 The serving of an enforcement notice under S127 (1) of the Town and Country Planning (Scotland) Act 1997 constitutes taking enforcement action (as did the service of the Section 33A Notice.) The power to take further action and serve an enforcement notice is a discretionary power under Section 127 (1) of the aforementioned Act and circular 10/2009 (Planning Enforcement) provides guidance on matters to which the planning authority should have regard when determining the appropriate course of action. Under Section 127 (1) the planning authority may serve an enforcement notice where there has been a breach of planning control and it is expedient to issue the notice having regard to provisions of the development plan and any other material considerations. The breach of planning control here consists of the carrying out of unauthorised works without the required planning permission. The planning application has also not been submitted, as required by the Section 33A Notice. The Planning Applications Committee has determined that taking no action is not an acceptable approach, therefore the service of an enforcement notice is deemed to be the next available step.
- 3.5 Circular 10/2009 (Annex C) states that “Where a planning application is not submitted to the planning authority by the date specified, following the service of a Section 33A Notice, the planning authority should consider further enforcement action. Such further action should be considered particularly if the planning authority were of the view that a retrospective application would have been granted only if it were subject to conditions or limitations. In such cases it may be appropriate to issue an enforcement notice imposing restrictions on the use of the land or on activities carried out on the land.”
- 3.6 For clarification, the Section 33A Notice served sought the submission of a planning application for determination but this Notice or any other correspondence from the Planning Service did not indicate to the owners of 29 East Kilbride Road that the works were unacceptable in amenity terms or required to be controlled through the imposition of planning conditions. In this regard Circular 10/2009 further clarifies that “before issuing a notice under section 33A the planning authority should, as with any enforcement action consider whether the action is commensurate to the breach. There would be no purpose in issuing such a notice where the planning authority were of the view that permission would clearly not be granted.”
- 3.7 Section 128 of the Town and Country Planning (Scotland) Act 1997 states that an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes:
- 3.8 *These purposes under S128(4) are:*
S128 (4) (a) remedying the breach of planning control by making any development comply with the terms of any planning permission which has been granted on the land by discontinuing any use of the land or by restoring the land to its condition before the breach took place. Planning Permission has not been granted and so only the latter section is applicable.

S128(4)(b) remedying any injury to amenity which has caused by the breach.

An enforcement notice may, for example, require –

- a) *the alteration or removal of any buildings or works;*
- b) *the carrying out of any building or other operations,*
- c) *any activity on the land not be carried on except to the extent specified in the notice*

Given the above, the three options available in relation to serving an enforcement notice are considered to be those outlined below for the removal, or partial removal of the structures (option 1), serving a notice specifying relocation of the building or buildings (option 2), or serving a notice specifying what activity can take place at the site (option 3); having regard to the purposes of restoring the land to its former condition or remedying any injury to amenity.

It is necessary to consider what is expedient having regard to the development plan and any other material considerations. It is also necessary to consider what is reasonable and proportionate and, in relation to amenity, have in mind what the Planning Applications Committee considers to be the injury to amenity they are seeking to remedy. From the Circular, enforcement action should always be commensurate with the breach of planning control to which it relates and the planning authority should consider whether the breach of control would affect unacceptably either public amenity or the use of land and buildings meriting protection in the public interest. It is relevant to consider that if a planning application had been submitted, it is most likely that the recommendation would have been to grant planning permission for the unauthorised works.

- 3.9 **Option 1** - serve an enforcement notice seeking removal of the structures, with the following sub options available:
- a. Remove both unauthorised outbuildings and fence from the site;
 - b. Remove both unauthorised outbuildings from the site only;
 - c. Remove the unauthorised building closest to the footpath only.

Option 2 – serve a notice specifying the relocation of one or both buildings to another location within the garden. This would require an alternative site within the garden ground to be identified.

Option 3 – serve an enforcement notice requiring any activity on the land not to be carried on except to the extent specified in the notice. For instance a notice could state that the outbuildings can only be used for a specific purpose (such as storage for domestic/garden materials only).

- 3.10 In terms of the above options, it should be noted that the advice of officers has been that the breach of planning control (and subsequent failure to comply with the terms of the section 33A Notice by submitting a planning application) was not of such severity to amenity that further enforcement action was deemed expedient. It should be noted that option 3 would generally not be an appropriate route to seek to remedy a breach of planning control where the position and/or appearance of a building was deemed to be the most significant factor in terms of the development being unacceptable.
- 3.11 Option 3 could be an option if the activities taking place at the site are likely to be a breach of planning control in themselves and unacceptable in amenity terms but the buildings may be acceptable in this location if used in an alternative manner. In this regard, the Planning Service is not aware of any evidence that the unauthorised buildings are used for a purpose that is not incidental to the enjoyment of the main dwellinghouse at the site. However, it is noted that at the Planning Applications Committee meeting of 4th October, some concern was expressed by Members in respect of the potential use of the buildings.

- 3.12 A further option (**Option 4**) to monitor the situation is considered to be available to the Committee. Service of the Section 33A notice prevents the breach of planning control becoming lawful development. If the concerns of the Planning Applications Committee relate, for example, to the potential use and associated noise or other disturbance then monitoring would allow for this to be considered before further action is taken if deemed necessary.
- 3.13 In summary, in terms of options 1 to 3, it is considered that options 1 and 2 are more appropriate to remedy any deemed injury to visual amenity caused by the works. If Members form the view that the buildings are acceptable in this location in visual terms but that the use requires to be restricted, option 3 may be appropriate to control this aspect. Compliance with terms of the enforcement notice can result in deemed planning permission and option 4 might therefore be more appropriate to ascertain what the effect the unauthorised structures have and what the most appropriate remedy would be.
- 3.14 There is a right of appeal to an enforcement notice, with enforcement appeals determined by Scottish Ministers via the Planning and Environmental Appeals Division (DPEA). If the appellant is successful at appeal, the unauthorised works would become lawful in planning terms. A Scottish Government appointed Reporter can impose conditions or other restrictions as deemed necessary when deciding on an enforcement appeal. It should be noted that the applicant can submit an expenses claim alongside an enforcement appeal. If the Reporter deems that the Council has acted unreasonably, it is possible that costs could be awarded against the Council.

4 CONCLUSIONS

- 4.1 Following the decision of the previous Planning Applications Committee meeting of 4th October 2023, an updated position with options to consider is set out above. If the Planning Applications Committee determine that serving an enforcement notice is required, it will be necessary to specify exactly what the enforcement notice requires the land owner to do and also within what timescale.

5.0 RECOMMENDATION

- 5.1 This report sets out options for Members to consider how to progress this matter, which was previously reported to the Planning Applications Committee on 4th October 2023. Officers from the Planning Service will then take forward the action determined by the Planning Applications Committee.

6.0 BACKGROUND PAPERS:

- 6.1 Further information on background papers can be obtained from Mr Alan Pepler on 0141 577 3001.

DATE: 9 February 2024

DIRECTOR OF ENVIRONMENT