

Business Operations and Partnerships Department

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Date: 29 March 2024

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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 3 April 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 – 42).
4. Section 33A Notice – 29 East Kilbride Road, Busby, G76 8JY – Update – Report by Director of Environment (copy attached, pages 43 – 46).

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>

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**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
3rd April 2024.

Reference No: 2020/0578/TP

Ward: 2

Applicant:

Mr Andy Brand
Nene Lodge
Funthams Lane
Whittlesey
United Kingdom
PE7 2PB

Agent:

Site: Site 370M South Of Nether Carswell Cottage Kingston Road Neilston East Renfrewshire

Description: Erection of 66.90 metre high (to hub height) wind turbine with formation of access track and siting of sub-station building.

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

Reference No: 2023/0656/TP

Ward: 1

Applicant:

Cala Management Ltd
McLellan Works
274 Sauchiehall Street
Glasgow
Scotland
G2 3EH

Agent:

Andrew Woodrow
5th Floor
9 George Square
Glasgow
Scotland
G2 1DY

Site: Land At Balgraystone Road Springfield Road & Aurs Road Barrhead G77 6PQ

Description: Proposed residential development and neighbourhood centre with associated access, landscaping, open space and drainage infrastructure. (Amended/updated plans and information).

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

REPORT OF HANDLING

Reference: 2020/0578/TP

Date Registered: 25th September 2020

Application Type: Full Planning Permission

This application is a Local Development

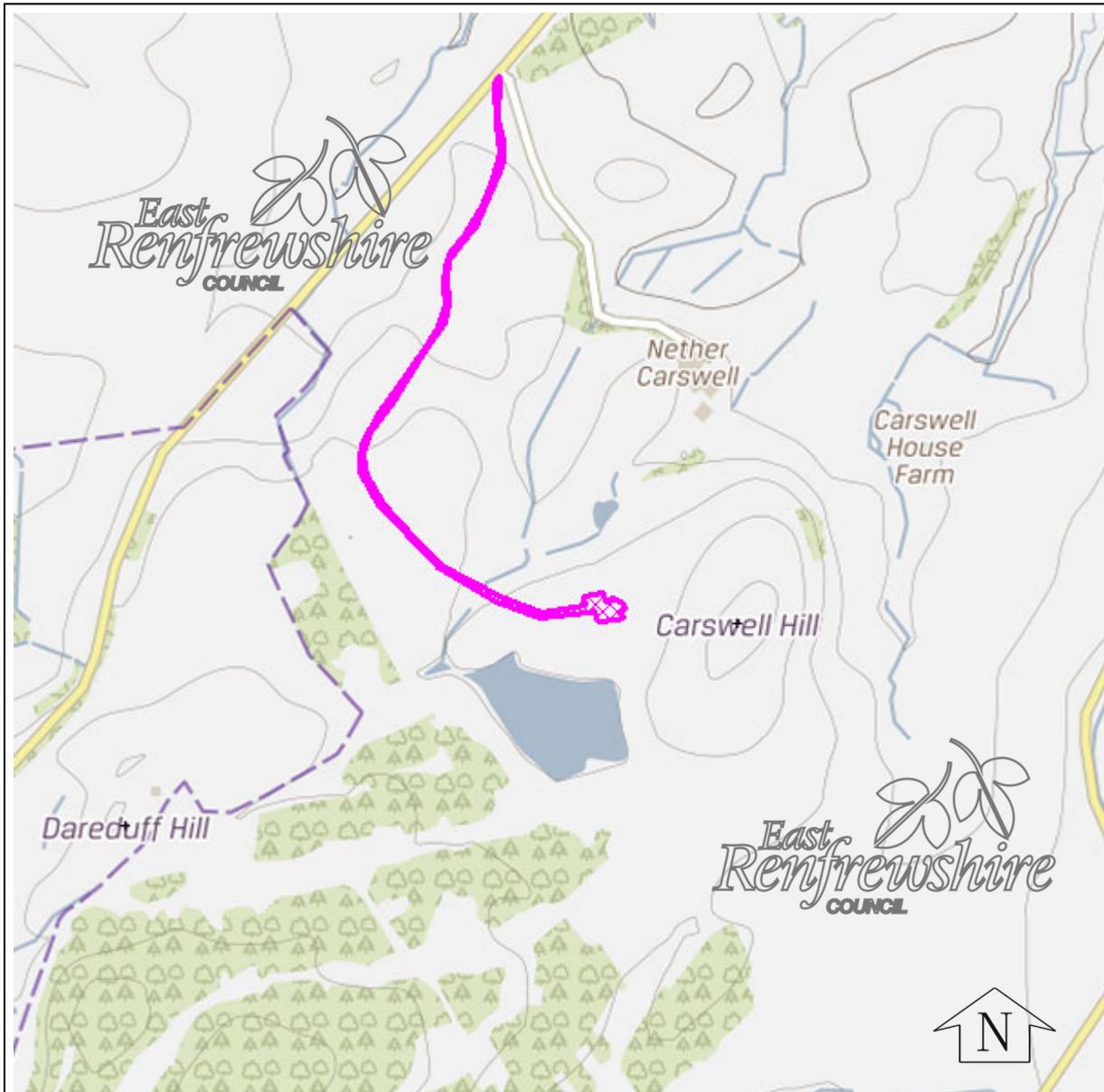
Ward: 2 -Newton Mearns North And Neilston

Co-ordinates: 246241/:653166

Applicant/Agent: Applicant: Agent:
Mr Andy Brand
Nene Lodge
Funthams Lane
Whittlesey
United Kingdom
PE7 2PB

Proposal: Erection of 66.90 metre high (to hub height) wind turbine with formation of access track and siting of sub-station building.

Location: Site 370M South Of Nether Carswell Cottage
Kingston Road
Neilston
East Renfrewshire



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CONSULTATIONS/COMMENTS:

Glasgow Airport	No objections subject to conditions
East Renfrewshire Council Roads Service	No objections
East Renfrewshire Council Environmental Health Service	No objection subject to conditions
Ministry Of Defence	No objections
Glasgow Prestwick Airport	No comment at time of writing
West Of Scotland Archaeology Service	No objections subject to conditions
NERL Safeguarding	No objections
Strategic Services	No response at time of writing
Scottish Environment Protection Agency (SEPA)	No comment at time of writing

PUBLICITY:

23.10.2020 Barrhead News Expiry date 06.11.2020

SITE NOTICES: None.

SITE HISTORY:

REPRESENTATIONS: 20 representations have been received: Representations can be summarised as follows:

Overprovision of turbines in East Renfrewshire Noise impact
 Visual Impact
 Noise impact Ongoing complaints re noise outstanding
 ETSU not fit for purpose
 Non-compliance with Arhus Convention
 Consultation out of date
 Light nuisance from navigation lighting in turbines
 Possible archaeological impact
 Wildlife impact
 No community benefit
 Decommissioning bond required
 Unacceptable time taken to determine the application

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:

SUPPORTING REPORTS:

- Planning Statement Outlines the proposed development and provides an assessment in terms of the Scottish Government and Council aims and policy across a range of aspects. It commends the development as fully acceptable complying with the development plan and material considerations.
- Landscape and Visual Impact Assessment Assesses the landscape and visual impact of the proposal. It utilises established mechanisms for such assessments informed by works carried out and guidance published by several agencies.
- Transport Statement Evaluates the accessibility of the site to various transport modes, principally in respect of the construction phase in the event that planning permission is approved. It acknowledges the potential for abnormal loads to impact on the road network. It concludes that works will be required at various points along the identified route to achieve obstruction free routes.
- Noise report Assesses the operational and cumulative noise of the proposed development, utilising established methodology and practice. It considers that the noise impact of the proposed turbine will be at an acceptable level.
- Heritage Statement Assesses the archaeological and cultural heritage value of the site and the potential direct impact of the proposal on those assets and others within a certain distance of the site.
- Ecological Appraisal Considers the likely impact of the proposal on protected species and or areas. There are no statutory designations on or in the immediate area of the site that are protected. The habitat nature of the site and its environs is such that some potential exists to support protected species. However, at the time of survey no signs were noted.
- NVC/GWDTE Survey Assesses the national vegetation classification and ground water dependant terrestrial ecosystems of the site and its environs. It found that the area was not characterised by groundwater sources but by rainfall and surface runoff. Nevertheless mitigation measures are recommended in accordance with established best practice advice.

ASSESSMENT

PROPOSAL AND SITE DESCRIPTION

This planning application is for a single wind turbine with a generating capacity of approximately 4.2MW. This generating capacity means the proposal is considered a Local development under the Town and country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

Local planning applications would normally be determined under delegated powers however, the application has been subject to more than 10 objections and therefore under the Environment Department's scheme of delegation is required to be considered by the Planning Applications Committee.

The site of the turbine is approximately 700m east of Kingston Road and 320m south of Nether Carswell farm. Access to the site is indicated as being taken from Kingston Road utilising the existing access for the existing operational windfarm comprising two turbines; Nether Carswell (NC) I and II.

The proposal of a wind turbine on this site has been screened under the terms of the Environmental Impact Regulations 2017 in July 2019. The Screening Opinion concluded that the development (with a max blade tip height of 150m) did not constitute an Environmental Impact Assessment (EIA) development and an EIA has not therefore been submitted with this application.

The proposed turbine will have a hub height of 66.9m and a rotor diameter of 116m giving a blade tip height of 124.5m. It would be known as Nether Carswell III.

The existing access track will be extended to the turbine position some 500m east and south of NCII, where a crane hardstanding will be formed. A substation building 5.55m wide, 4m deep and 3m high is proposed at the foot of the tower on its north side.

It has been indicated that the operational life of the proposed turbine is approx. 25 years.

The turbine, whilst ostensibly a conventional three blade design, is of a much larger scale with a much greater rotor diameter than its fellow Nether Carswell turbines. See table below.

Turbine	Hub/height	Rotor Dia	Tip height	Area of rotor sweep
NC I	50 m	54 m	77 m	2,289 sqm
NC II	50 m	60 m	80 m	2,826 sqm
NC III	69 m	116 m	124.5 m	10,560 sqm

Under established turbine typology, NC III would be considered a very large turbine. NC I and II are medium turbines.

The site and local area is undulating countryside utilised mainly for agricultural purposes. The immediate fields are mainly used for grazing purposes.

The closest residential properties are at Nether Carswell Farm and Carswell House, respectively 380m and 500m from the proposed turbine to the north and north east of the proposed turbine site. Both of these properties have been confirmed as financially involved in the proposal.

The consideration of this application has been delayed significantly for two reasons. Firstly, the lack of a consultation response from Prestwick Airport Safeguarding. Secondly, the ongoing consideration of a complaint of turbine noise from a local resident. That complaint from a resident of a property to the west of Kingston Road encompassed three wind turbine sites.

POLICY CONTEXT

National Planning Framework 4

Applications for planning permission are required to be assessed against the development plan. The development plan now extends to National Planning Framework 4 (NPF4) and East Renfrewshire Council's Local Development Plan 2 (LDP2). LDP2 was adopted in March 2022. NPF4 was adopted in February 2023 and is the most up to date Scottish Government Planning Policy (SGPP).

NPF4 encompasses the National Spatial Strategy for Scotland 2045 and National Planning Policy. The former establishes a series of spatial principles to help achieve national outcomes for Scotland in response to UN Sustainable Development Goals. The strategy and associated policies are framed to support development that helps to meet greenhouse gas emission targets. Those considered relevant to this proposal are listed below.

Policy 1- Tackling the climate and nature crises. This is the first and overarching policy. It seeks to promote and facilitate development that addresses these crises. Local Development Plans (LDPs) are required to address these same crises.

This policy states that ...'When considering development proposals significant weight will be given to the global climate and nature crises'.

It is considered that the proposal in principle is compatible with this aim and would assist in addressing the matters directly.

Policy 3 Biodiversity. Intends to protect biodiversity, reverse its loss and deliver positive effects from development and strengthen nature networks.

Items c) and d) provide that local developments are to include measures to conserve restore and enhance biodiversity in accordance with national and local guidance and that potential adverse impacts will be minimised through careful planning and design. No such measures have been proposed or detailed in the planning application.

Policy 8 – Greenbelts. This policy is intended principally to assist the directing of development to the right location whilst helping to manage unrestricted urban growth. In so doing its natural character and setting for urban areas is protected and enhanced. The policy explicitly lists development types that are considered appropriate for greenbelt locations. Renewable energy proposals are included. Again, the proposal in principle accords with this aim.

Policy 11 - Energy. Seeks to encourage, promote and facilitate all form of renewable energy development. It confirms the principle of supporting all forms of renewable energy developments with the exception of National Parks and National Scenic Areas where wind farm proposals will not be supported.

It expects planning authorities through their LDPs 'to realise their areas full potential for the generation of electricity and heat from renewable low carbon and zero emission sources by identifying a range of opportunities for energy development.' It stresses that significant weight will be placed on the contribution the proposal will make to renewable energy generation targets and greenhouse gas reduction aims. In principle, this proposal accords with these aims. However, it also specifically acknowledges the economic contribution such proposals can make and confirms proposals 'will only be supported where they maximise net economic impact across local and community socio-economic benefits such as employment, associated business and supply chain opportunities.' The applicant has not advanced any statement on how this maximisation will be achieved. Mitigation is also expected in particular in respect of any localised impact criterion e)ii). Again, the applicant has not advanced any direct mitigation measures.

Additionally the policy notes that a number of considerations will require to be satisfied by product design and mitigation for example:

- Residential amenity
- Landscape and visual impact
- Aviation and defence interests
- Telecommunications and broadcast matters
- Impacts on road networks
- Historic environment
- Hydrology
- Biodiversity
- Decommissioning including a restoration bond
- Site restoration plans
- Cumulative impacts

Many of these considerations are also referred to in East Renfrewshire's LDP2.

However on two aspects; the absence of any statement of what socio and economic benefits could accrue from this proposal (and be maximised) and the absence of a mitigation scheme is such that this proposal fails to meet the terms of this policy.

East Renfrewshire Local Development Plan 2

In terms of LDP2, the relevant policy considerations are D1, D3 and E2.

Policy D1 - Placemaking and design. This policy seeks to ensure that development is well designed, sympathetic to the local area, and responds to a list of criteria. In terms of wind turbine development, the main considerations are impact on the character and amenity of the surrounding area, ensuring that proposals do not impact adversely on the green belt or other areas of interest, and impact on the amenity of neighbouring uses.

The character and amenity of the surrounding area is mainly rural upland. It is, however, currently influenced by wind turbine development. The other turbines are in a variety of sizes. The largest being the Neilston Community Windfarm NCWF (approved in 2011) on the west side of Kingston Road with four turbines (65m hub height 110m tip height).

The benefits of wind generated electricity are acknowledged and well documented. At the same time, however, it is also recognised that the means of generation of the wind turbines themselves have a detrimental impact on the character of the landscape and the amenity of individuals that live within or travel through that landscape.

The applicant's submission is that the height of the turbine at 124.5m has been selected to 'reflect the heights of existing wind turbines nearby.'

The typology of the larger turbines approved in the area are tabled below. This current proposal is at the bottom.

SITE	App No	Date of Approval	Typology	Hub Height	Tip Height	Rotor Dia	
NCWF	2009/0744/TP	May 2011	Large	65m	110m	90m	
Neilstonside	2011/0289/TP	Jul 2012	Medium	50m	77m	54m	
NC I	2011/0290/TP	Jan 2012	Medium	50m	77m	54m	
South Uplaw	2011/0743/TP	Mar 2012	Medium	50m	65m	30m	
NC II	2014/0228/TP	Nov 2015	Medium	50m	80m	60m	
Harelaw/Commore Bridge	2014/0558/TP	Aug 2015	Medium	50m	77m	54m	
NC III	2020/0578/TP	Under consideration	Very Large	67m	125m	116m	

The closest height to the application turbine are the existing Nether Carswell turbines I and II. Respectively these turbines have blade tip heights of 77m and 80m some 33% smaller than the proposed NC III turbine.

The boundary with East Ayrshire Council is to the south and west of the application site. An operational turbine is just over the border at Dareduff Hill. It is also a medium turbine with a 40m hub height and 68m tip height.

Noting the above, it is considered that the proposed turbine is not in keeping with the prevailing scale of turbine development in the area. It is markedly taller. This additional height and its particularly large rotor sweep results in a significantly larger active form with a resultant detrimental impact on the local landscape and aspects from local landmarks, for example Neilston Pad. Additionally, in respect of more direct residential amenity considerations, it is considered that the amenity of Moyne and Picketlaw would be adversely affected.

Policy D3 - Green belt and countryside around towns states that development in the green belts will be strictly controlled and limited to those considered appropriate to the rural location. It indicates that the Council will give sympathetic consideration to a range of proposals, including those for renewable energy development, subject to compliance with other relevant policies of LDP2.

Any decision will have to take into consideration the impact the proposals will have on the function of the countryside around towns and the viability of important agricultural land. Development must be sympathetic in scale and design to the rural location and landscape.

Again, as outlined above in respect of Policy D1, it is considered that the proposed turbine is not sympathetic in scale or design to this area of the green belt.

Policy E2 - Renewable Energy supports low and zero carbon proposals. This support is provisional to the demonstration that the proposal will not result in unacceptable significant adverse impacts across relevant environmental, community and cumulative impact considerations.

This policy was formulated to accord with the advice in Scottish Planning Policy of 2014, and lists a number of criteria against which proposals should be considered. The criteria broadly reflect those of Policy 11 of NPF4.

Policy E2 is intended to be supported by further detailed guidance and information in a Supplementary Guidance on Low and Zero Carbon Delivery. However, until that is available, it is considered that the Council's Renewable Energy SPG (2017) (now Non Statutory) remains a material consideration when considering proposals for wind energy development. It was informed by the findings of the Council's Wind Energy Study of 2012 and the Local Landscape Capacity Study (LLCS)(2014). This last study provides a more detailed assessment of where wind turbine development could be accommodated.

It confirms that the site for this proposal is in a Rugged Upland Moorland landscape characterised by:

- rugged landform comprising rocky bluffs and shallow troughs
- reservoirs in the troughs
- pastoral farmland
- frequent tree cover that emphasises the landform
- settlements limited farms and villages

It is considered to have a medium to high sensitivity to wind turbine development. Some capacity to accommodate turbines is recognised but only up to medium scaled turbines (up to 80m blade tip height). As mentioned previously, the proposed NC III turbine is a very large turbine.

This study considers that opportunities for larger scale developments in East Renfrewshire are limited and concentrated in the plateau moorland areas in the south east of East Renfrewshire where the Whitelee Windfarm is located. The proposed NCIII turbine would be the largest turbine in East Renfrewshire, larger than the Whitelee turbines in East Renfrewshire. Noting the above, it is considered that the proposal does not accord with Policy E2 in respect of landscape and visual impact terms.

Furthermore the prevailing design and scale of the turbines in the area south of Neilston is such that the proposed turbine is out of keeping with that pattern. The principle of using turbines of the same scale and design in wind farm design has long been recognised as best practice. This approach is held to assist in reducing visual confusion to those who experience a landscape altered by wind farm development either by living in close proximity to or travelling through it.

The particular disparity in terms of scale and design between the two existing Nether Carswell turbines has been noted and the adoption of a similar scaled turbine was recommended to the applicant. The applicant elected not to amend the turbine design for reasons of viability.

Although the site is in an area where support for renewable energy is indicated, the relevant policies from LDP2 make it clear that adverse impacts are not to occur and the mitigation of environmental impacts needs to be demonstrated. No such mitigation has been brought forward.

Other environmental considerations

In terms of other potential impacts, the following matters area also considered relevant.

Noise impact is a residential amenity consideration. The submitted noise assessment has been considered by the Council's Environmental Health Officers and is considered acceptable.

Shadow Flicker (an additional residential amenity impact) is a phenomenon caused by a combination of geographical position and the time of day. It's a particular effect of shadow cast by turbine rotors over small window openings in properties in the locality of the turbine.

Four properties have been identified as likely to be affected, namely Nether Carswell Farm (financially involved), Carswell House (financially involved), The Moyne and Moyne Farm

The normal solution to shadow flicker impact when predicted is that the turbine/turbines are adapted to ensure the turbines shut down when shadow flicker occurs. This can be secured by means of a condition in the event that planning permission is approved.

Policy D22 relates to airport safeguarding and states that proposals which interfere with visual and electronic navigational aids and/or increase bird hazard risks will be resisted unless accompanied by specific and agreed mitigation measures.

Glasgow Airport, Glasgow Prestwick Airport and National Air Traffic Services all initially objected to the application in the absence of an agreed primary radar mitigation scheme. During the lengthy consideration of the application additional work and assessment was carried out by these agencies and the objections have been withdrawn.

Economic considerations

There are as outlined above differences between NPF4 and LDP2. The most noticeable is the removal of the spatial frameworks approach to managing wind farm development.

The introduction via the NPF4 of an explicit requirement for developers to demonstrate a maximisation of socio economic benefits as a consequence of or directly supported by the proposed development is also a distinctly new aspect.

This presents a firm policy consideration beyond the aspect of community benefit arrangements. No such demonstration has been presented.

Taking the above policy matters it considered that the proposal is contrary to the Development Plan. On that basis planning permission should be refused unless material considerations indicate otherwise.

The material considerations in this case are considered to be consultation responses, submissions from the applicant and letters of representations.

CONSULTATIONS

In addition to the consultation comments referred to above in direct response to policy considerations, the following should be noted.

The Council's Roads Service have not raised any concerns regarding this proposal.

The Council's Environmental Health Service have also advised of no objections but have recommended a number of conditions encompassing noise and private water impacts that should be attached to a planning permission if the proposed development is approved.

Glasgow Airport safeguarding have recommended the installation of obstacle lights on the turbine if approved.

APPLICANT'S SUPPORTING STATEMENTS

The applicant has submitted a range of supporting information on matters that they consider most relevant to this development. An accompanying Planning Statement has also been submitted and has been updated more recently with the inclusion of NPF4 considerations.

The main subjects/topics addressed in this information are as follows: principle of the development and overarching policies; landscape, visual and design; biodiversity and natural heritage; peat; cultural heritage; hydrology and flood risk; noise; transport; aviation; and shadow flicker.

The supporting submissions from the applicant generally conclude that the impact of the development is acceptable. They consider the development is in compliance with the relevant national and local policies for energy and renewable and low carbon energy development. This position is noted however issue is taken with the landscape and visual impact case presented.

The applicant has provided a range of information on these aspects including landscape character and designations zones of theoretical visibility to illustrate the theoretical visibility of the proposal. Information on the theoretical zone of visibility of the proposed turbine is presented across varying distance radii from the site illustrating the sites visibility.

Additionally, nine viewpoints have been selected to demonstrate the impact of the proposal. They are at varying distances from the site and have on been selected to provide a clear and open view towards the development. Two are outwith East Renfrewshire, four are appreciably closer to the site.

The applicant's report on this information summaries the approach method and assesses the impact of the proposal.

Viewpoint 1 Minor Road at Knockmade approx. 2.5km west of the site in East Ayrshire. The magnitude of visual change is assessed as medium to low. The degree (significance) of the effect as minor. AGREED

Viewpoint 2 Neilstonside approx. 2.1km north of the site. The magnitude of visual change is assessed as medium to low. The degree (significance) of the effect as moderate to minor. NOT AGREED. The differing scale and character of larger turbine proposed is considered to be marked when viewed at this proximity with the more modest NC turbines on the east side of Kingston Road. The earlier and larger turbines in the NCWF in this closer perspective are markedly different. The scale of NC III as proposed appears as an erratic outlier of NCWF, rather than a companion wind turbine at Nether Carswell.

Viewpoint 3 Moyne Farm. 800m east of the site. The magnitude of visual change is assessed as medium. The degree (significance) of the effect is considered major/moderate to moderate. NOT AGREED. The new turbine is closer than the existing Nether Carswell turbines and the proposed turbine is significantly more intrusive due to its scale and design. The impact is not considered to be moderate.

Viewpoint 4 Picketlaw. 800m south/east of the site. The magnitude of visual change is assessed as medium to high. The degree (significance) of the effect as major/ moderate. NOT AGREED. Effect is similar to that on Viewpoint 3. The turbine is approx. 700m away, not the 900m the report states. The effect is not moderate.

Viewpoint 5 Neilston Pad approx. 2.2km north of the site. The magnitude of the visual change is assessed as medium to low. The degree (significance) of the effect as moderate to moderate/minor. NOT AGREED. The large scale and disproportionate diameter of the turbine rotor exacerbates the increase in scale from the turbines in the view. Only one of the extreme edge of NCWF is captured and it is at a greater distance from the viewpoint. Neilston Pad is a valued local landmark where community use, in particular, cycling and walking is promoted by the Council.

Viewpoint 6 Queenseat Hill approx. 7km south/east of the site. The magnitude of visual change is assessed as low to very low. The degree (significance) of the effect as minor. AGREED. As

already referred to, distance in these farther viewpoints assists. However, the value of this viewpoint with the three Moorshield turbines in the immediate foreground is questionable. They would certainly have altered the perception of this proposed turbine if constructed.

Viewpoint 7 Minor Road Nether Carswell. 840m north/west of the site. The magnitude of visual change is assessed as medium. The degree (significance) of the effect as moderate to minor. NOT AGREED. It is considered that moderate change with a minor effect does not reflect the likely reality of the turbine. It should also be noted that both wire frames and photomontage are incomplete.

Viewpoint 8 Lochlibside approx. 4.1km north of the site. The magnitude of visual change is assessed as low. The degree (significance) of the effect as moderate to minor. AGREED, as per Viewpoint 6 above.

Viewpoint 9 Minor Road Fullwood. 2.6km south/west of the site in East Ayrshire. The magnitude of change is assessed as low to very low. The degree (significance) of the effect as minor. AGREE. Larger scale still obvious but again distance helps mitigate impact.

In summary, when viewed from longer distances, such as from the north and east, the proposed turbine would be seen against or assimilated into views with other turbines at the Whitelee Windfarm. In this context, the visual effect is not considered to be significant. However, when viewed from closer, its difference in scale and rotor diameter is more marked, rendering it sufficiently incongruous to have a detrimental impact on the landscape of the area and the amenity of certain residential properties.

APPLICANT'S PLANNING STATEMENT

This document outlines the role renewable energy generation proposals in general can make to tackling climate change in accordance with National and Scottish Government aims and policies. The proposal and its estimated contributions to climate change targets are outlined.

Development plan considerations are set out and addressed, including those of NPF4 policies. The applicant's submission is that the developments of this nature are needed. The area is suitable for turbine development.

In terms of NPF4, its central aim to address the climate change crises with an expansion of renewable energy generation addressed by Policy 11 is reiterated. A number of considerations referred in NPF4 are addressed in their statement. The Council would raise the following matters.

The expectation of Policy 11 to encourage, promote and facilitate all form of renewable energy development is noted. However, criterion c) confirms proposals will only be supported where a maximisation of socio economic benefits can be demonstrated. This is overlooked by the statement and no such demonstration has been offered by the applicant.

Criteria e) advises that project design and mitigation will demonstrate how impacts are addressed. Criterion eii) notes that significant landscape and visual impacts are to be expected from some forms of renewable energy. Where impacts are localised and or appropriate design mitigation has been applied they will 'generally' be considered to be acceptable.

In this instance, landscape and residential impacts are more localised and are considered to be significant. Again, principally due to the scale and design of the proposed turbine. No discernible mitigation for these impacts is provided.

The Council's LDP2 and Renewable Energy SPG is noted by the applicant, as is the supporting Local Landscape Capacity Study. The applicant considers the status of this last document to be unclear given that the site is in a group 3 area. This area is suitable for windfarm development, subject to more detailed consideration against identified policy criteria.

The Council considers its position in respect of Policy E2 of LDP2 to be sufficiently clear. East Renfrewshire Council has been and is supportive of windfarm development. However, additional

assessments and studies undertaken outlined above and referenced in the Council's Renewable Energy SPG informed the view that different individual landscapes existed within the identified Group 3 area, and that each of these landscapes has a different sensitivity to wind farm development.

The scale of the turbine proposed in this instance is considered excessive and its impacts, including cumulative impacts, are considered significant and detrimental at the more local context. No specific mitigation is promoted other than the specific highlight that the proposed turbine will not be viewed directly by the occupants of financially involved properties.

It should be noted that in identifying limits in this area, the Council has identified opportunities elsewhere for such large turbines. An area with a more open and larger scaled character of landscape with a greater capacity to accommodate turbines of this scale is more appropriate.

There is also reference to additional documents, i.e. the Draft Energy Strategy and Just Transition Plan and Scottish Governments Onshore Wind Policy Statement 2022 in an effort to support the proposal. These documents are both supportive of additional onshore wind development.

The former refers to the remaining capacity for such development in Scotland and highlights the aim of providing more than 20GW of additional renewable electricity generation by 2020. In this instance, the generating capacity of this proposed turbine is 4.2MW, markedly higher than other turbines in the locale. This generating capability would account for 0.021% of this 20 GW figure.

The latter document outlines the Scottish Government position on the positive rollout of additional onshore wind power installations and acknowledges that larger and more efficient turbines can be deployed. It refers to a wide range of factors to be addressed and the necessary facilitating agencies involved, existing and proposed, but in doing so it also stresses the need to maximise the benefits of such developments across socio/economic sectors and community benefit aspects.

The ecological and habitat related submissions are noted and generally not disputed. However, there appears to be an area of dubiety in the consideration of bird strikes from the turbines. There is reference to the turbine being sited on an exposed hilltop and thus not likely to raise identified difficulties with Barn Owls. Rather, the opposite is true in that the proposed turbine is sited in a valley between Carswell Hill and the NCII turbine. Clarification has been sought from the applicant. The applicant has acknowledged the question as fair but have advised that this isn't an error and remain of the view that the term is valid in this instance.

REPRESENTATIONS

In terms of the points raised by objectors. The following is offered in response to matters not already addressed in preceding paragraphs.

ETSU not fit for purpose - This is in reference to the Assessment and Rating of Noise from Wind Farms document from the Energy Technology Support Unit (ETSU) published in 1996. Concerns have been raised from several quarters over the scope and effectiveness of this source in the consideration of noise impact from turbines for some years. The matter of it being reviewed has also been mentioned more frequently over the last few years. However at this stage the review is some time away and this guidance remains in place as a tool in the consideration of this type of development. The updated noise assessment has been examined by the Council's Environmental Health Service and conditions have been recommended to reduce any noise impact on any nearby dwellings.

The provision of the Aarhus convention are being ignored - This convention promotes wider and more involved community engagement during the consideration of wind turbine development. The notification provisions with the planning legislation are considered to be satisfactory.

The planning application should be withdrawn/restarted or at least re-advertised - The delay in the determination of this application is not attributable to the actions of the applicant. The proposal has not altered over that period.

The turbine at Dareduff Hill in East Ayrshire is a new element – This turbine is 1.5 km south of the application site and receptors in the Council area are likely to experience the more close and immediate impact of the Nether Carswell turbines and NCWF. Additionally, the landscape capacity document for East Renfrewshire considers that there is capacity for this scale of turbine.

Loss of wildlife –Whilst the application site is not within an area identified as having any significant habitat value, concerns have been expressed over the bird strike potential. Particularly noting the scale of the turbines rotor and its low clearance from ground level. As referred to above, the statement in support of the application confirms the measures for managing this issue before and during construction. In addition, an advisory note relating to the provisions of habitat and wildlife protection legislation will be attached to the planning permission, if approved.

Lighting - Comments have been made in respect of distraction from lights fitted atop turbines. The lights are a requirement for aviation safety and must comply with CAA guidelines.

Shadow flicker – already refer to above.

Private water supply - No private water supply issue has been raised or identified by the applicants. As mentioned above the Council's Environmental Health Service has raised the potential and for sources to be affected.

Lack of community benefit - As mentioned above, no information on this has been brought forward in connection with this application.

CONCLUSION

Taking the above matters into account, it is considered that whilst the policy position set out in NPF4 Policy 11 is noted, this proposal raises significant issues when considered against the development plan. Principally these relate to the scale and design of the proposed turbine which is considered well beyond what the local area can accommodate without significant detrimental landscape and residential amenity impacts.

PLANNING OBLIGATIONS: None.

RECOMMENDATION: Refuse

- 1 The proposed development is by reason of scale and design contrary to Policy 11 Renewable Energy of National Planning Framework 4 as it would have an adverse visual impact on the surrounding area. The proposed windfarm is considered to be dominant and prominent at this location and its impact is considered to be locally significant.
- 2 The proposed development is contrary to Policies D1 and E2 of the adopted East Renfrewshire Local Development Plan 2 as it would have an adverse visual impact on the surrounding area. The proposed windfarm is considered to be dominant and prominent at this location and its impact is considered to be locally significant.
- 3 The proposed development is contrary to Policy 11 of National Planning Framework 4 as the maximisation of socio economic impacts has not been demonstrated as required by this policy.

ADDITIONAL NOTES: None

ADDED VALUE: None

BACKGROUND PAPERS:

Further information on background papers can be obtained from Mr Ian Walker on 0141 577 3001.

Ref. No.: 2020/0578/TP
(IAWA)

DATE: 27th March 2024.

DIRECTOR OF ENVIRONMENT

REPORT OF HANDLING

Reference: 2023/0656/TP

Date Registered: 5th December 2023

Application Type: Full Planning Permission

This application is a Major Development

Ward: 1 -Barrhead, Liboside And Uplawmoor

Co-ordinates: 250921/:657718

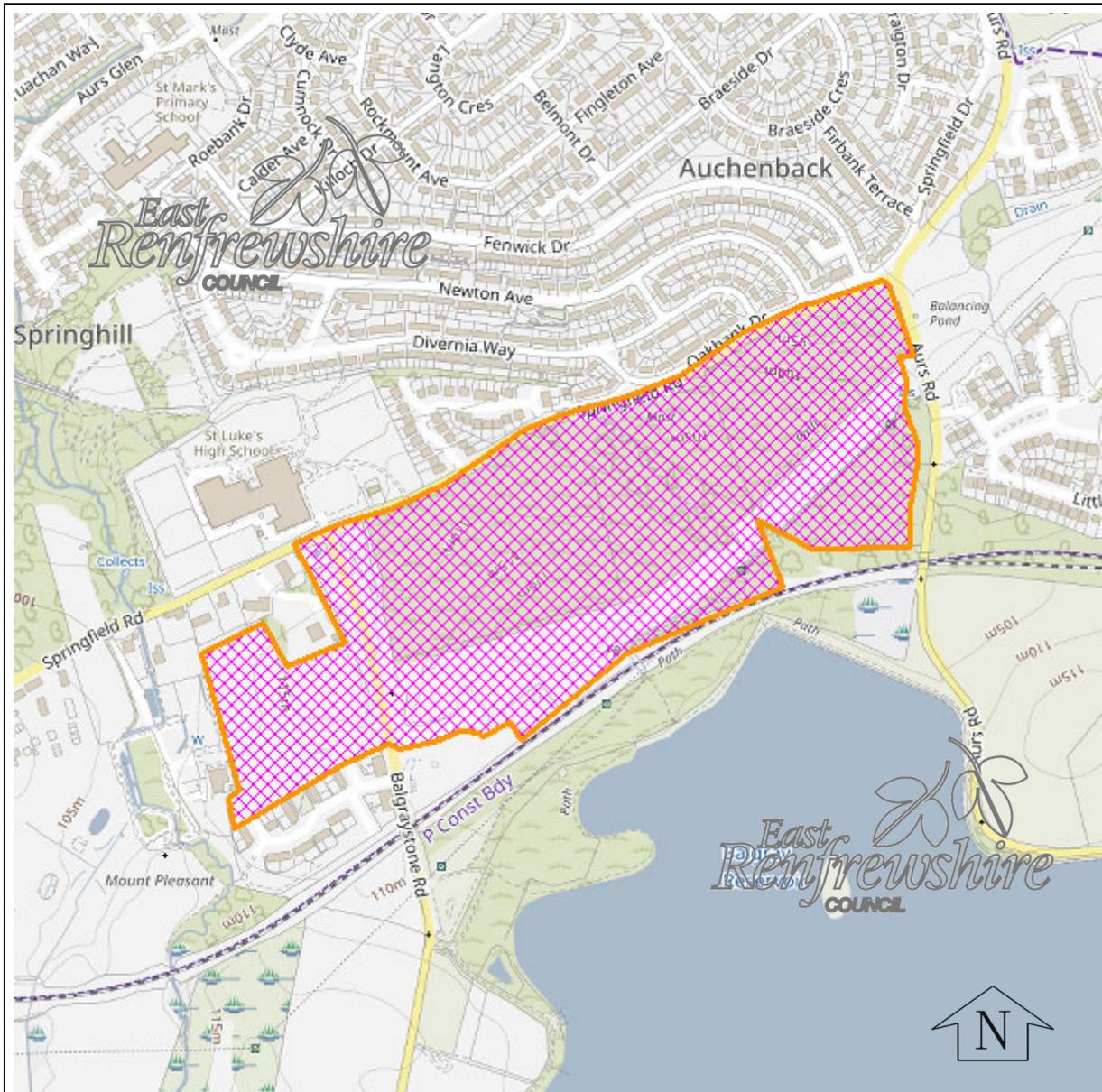
Applicant/Agent:

Applicant:
Cala Management Ltd
McLellan Works
274 Sauchiehall Street
Glasgow
Scotland
G2 3EH

Agent:
Andrew Woodrow
5th Floor
9 George Square
Glasgow
Scotland
G2 1DY

Proposal: Proposed residential development and neighbourhood centre with associated access, landscaping, open space and drainage infrastructure. (Amended/updated plans and information).

Location: Land At Balgraystone Road
Springfield Road & Aurs Road
Barrhead
G77 6PQ



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CONSULTATIONS/COMMENTS:

East Renfrewshire Council Roads Service	Have provided detailed comments and outlined a number of matters that require to be addressed through the imposition of conditions. Concerns raised regarding active travel connections to Springfield Road and Aurs Road.
East Renfrewshire Council Principal Officer (Planning Obligations Lead)	Per unit development contributions have been agreed with the applicant for affordable housing, education, Dams to Darnley Country Park, green network, path networks, community facilities, parks and open space. A minute of agreement under section 75 will be required.
Barrhead Community Council	No comments received
East Renfrewshire Council Environmental Health Service	Comments provided on noise, lighting, contamination/remediation, and dust management plan
Scottish Environment Protection Agency (SEPA)	Have provided comments in relation to flood risk and adjacent watercourses and risk of flooding. No objection provided on flood risk grounds.
Scottish Water	No comments received
West Of Scotland Archaeology Service	No objection subject to condition
SP Power Systems	No comments received
SPT Strathclyde Partnership For Transport	No comments provided
Nature Scot	No comments provided
East Renfrewshire Council Dams to Darnley Supervisor	Comments provided on active travel network and connections to/from Auchenback
East Renfrewshire Council Strategy Team	Comments provided on green network, biodiversity, landscaping, trees and woodland and play facilities. Conditions suggested on trees and landscaping

PUBLICITY:

22.12.2023 Barrhead News Expiry date 05.01.2024

SITE NOTICES: None.

SITE HISTORY:

REPRESENTATIONS: Sixteen objections were received and can be summarised as follows:

- Character and amenity of the surrounding area.
- Size and scale of development.
- Green belt and countryside.
- Natural environment, trees, species and habitats.
- Protected species.
- Loss of open space and outdoor access.
- Neighbourhood centre.
- Location of neighbourhood centre with associated traffic, deliveries, noise, litter, odours, vermin and antisocial behaviour.
- Traffic/volume/noise/parking/road safety.
- Carbon emissions.
- Public consultation events and discussions with the developer during consultation.
- Neighbour notification process.
- Infrastructure.
- Education & healthcare.
- Public health.
- Public transport links.
- Drainage/flooding.
- Crime.
- Construction impacts.
- Impact on town centre.
- Wildlife corridor around site boundary/shared boundary.

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:

Drainage Strategy Report and Flood Risk Assessment – Describes the existing hydrological regime and public drainage infrastructure. Makes an assessment of flood risk and details the proposed drainage strategy.

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.

Design and Access Statement – Describes the site, its context and the proposed development.

Preliminary Ecological Appraisal - Provides an assessment of habitats across the site and an assessment of the impact of the proposals on protected species.

Noise Impact Assessment – Background noise was measured. The report concludes that the site is suitable for the proposed development and the need to incorporate any mitigation measures to achieve a reasonable degree of amenity for existing and future incoming residents can be secured by a suitably worded planning condition, if necessary.

Planning Statement – Describes the site and its context and makes a detailed description of the proposal. 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.

Site Investigation – A detailed survey of the site and constraints in terms of ground conditions. The report concludes that further investigation is required for parts of the site to further clarify site conditions. A condition can be imposed to deal with this matter.

Transport Assessment – Sets out the site context, traffic generation and junction analysis, setting out mitigation measures where necessary. Also seeks to demonstrate that the proposals will integrate and function within their surroundings and that the proposal can be accommodated safely within the transport network.

Pre application Consultation Report – Sets out how the Pre application Consultation was carried out in accordance with legislative requirements and the outcomes from the exercise, as well as how the process has contributed to the design of the proposal.

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 two hectares and the proposal is comprised of more than 50 dwellings. It is therefore required that this application be determined by the Planning Applications Committee.

SITE

The application site is located immediately south of Barrhead along the southern edge of the established urban settlement. The application site is comprised of two areas of land which are split by Balgraystone Road. The larger area of land to the east of Balgraystone Road bounds Springfield Road, Aurs Road, a railway line and the proposed site for the new Balgray Railway Station. The land is comprised of a large unmaintained field with several scattered trees and shrubs. The land drops from a high point to the south/southwest of the land near the railway line, downwards to the north/northeast, dropping by up to 41m. A core path runs north to south through the centre of the parcel of land, leading from Springfield Road to Dams to Darnley Country Park. The land also contains a Local Biodiversity Site which forms a corridor running north to south through the site. A defining feature of the site is the overhead electricity pylons and cables which traverse the south-eastern part of the site.

The second area of land to the west of Balgraystone Road is smaller in area. The land was formerly an open area of grassland. More recently, spoil from nearby development has been placed on the site, with an associated increase in ground levels over most of the site compared to the existing development to the south and west. The site can be characterised as being open grassland.

PROPOSAL

Planning permission is sought for a residential development with neighbourhood centre and associated access, landscaping, open space and drainage infrastructure.

The proposal would erect 346 dwellings located throughout the site in five distinct pods. The dwellings are a mixture of detached, semi-detached and terraced properties proposed in a variety of styles and sizes that range from one and a half to three storeys in height. The pods would contain a mixture of house types with the exception of Pod 5 which would contain only terraced houses.

The larger area of the site, located to the east of Balgraystone Road, would create a green corridor (and active travel route) running east to west and connecting Pod 5 and the proposed Balgray Train Station to Aurs Road. The green corridor and active travel route would also follow the existing Local Biodiversity Site and would connect onto Springfield Road. These areas would have a 3m wide active travel footpath with tributary 2m wide footpaths feeding into the housing pods. The green corridor would be landscaped with areas surrounding the housing pods also landscaped. The plans

show that Pod 1, Pod 2 and Pod 4 would include a play area with Pod 2 also containing a village green.

The proposed neighbourhood centre would be positioned in the northern part of the site, adjacent to Springfield Road and would be accessed from the main access road into the site. The proposed neighbourhood centre would be comprised of four units (three units measuring 1260sqft each and a larger unit measuring 4000sqft. The neighbourhood centre would provide 24 parking spaces (two of which are disabled bays). Delivery access would be achieved through the main car park to the front of the units. Two SUDS ponds will also be formed on-site.

POLICIES

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 relevant Policies in NPF4 are Policies 1, 2, 3, 4, 6, 7, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22 and 23.

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

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

Policy 3 (Biodiversity) (a) states 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. (b) Major development 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. This will include future management. Policy 3 (d) 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. 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) (d) Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where: i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance. Furthermore, (f) states that development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application.

Policy 6 (Forestry, Woodland and Trees) (b) states that development proposals will not be supported where they will result in: (ii) Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy.

Policy 7 (Historic Assets and Places) states that 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. When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority.

Policy 12 (Zero Waste) states that development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.

Policy 13 (Sustainable Transport) states that; b) development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies.

Policy 14 (Design, Quality and Place) states that (a) development proposals will be designed to improve the quality of an area. Policy (b) Development proposals will be supported where they are consistent with the six qualities of successful places: Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable.

Policy 15 (Local Living and 20 Minute Neighbourhoods) states that proposals will contribute to local living with consideration given to the existing settlement patterns and the level and quality of interconnectivity.

Policy 16 (Quality Homes) (a) states that development proposals for new homes on sites allocated for housing in LDPs will be supported; (b) development proposals that include 50 or more homes should be accompanied by a Statement of Community Benefit and (e) development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need.

Policy 18 (Infrastructure First) (b) states that the impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. Where planning conditions, planning obligations, or other legal agreements are to be used, the relevant tests will apply.

Policy 19 (Heat and Cooling) states that developments to be occupied by people will be supported where they are designed to promote sustainable temperature management, for example by prioritising natural or passive solutions such as siting, orientation, and materials.

Policy 20 (Blue and Green Infrastructure) states that proposals incorporating new or enhanced blue and/or green infrastructure will be supported.

Policy 21 (Play, Recreation and Sport) (d) states that development proposals likely to be occupied or used by children and young people will be supported where they incorporate well-designed, good quality provision for play, recreation, and relaxation that is proportionate to the scale and nature of the development and existing provision in the area.

Policy 22 (Flood Risk and Water Management) states that: c) Development proposals will: i. not increase the risk of surface water flooding to others, or itself be at risk. ii. manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue/green infrastructure. All proposals should presume no surface water connection to the combined sewer; iii. seek to minimise the area of impermeable surface. Development proposals which create, expand or enhance opportunities for natural flood risk management, including blue and green infrastructure, will be supported.

Policy 23 (Health and Safety) states that development proposals that have positive effects on health will be supported. It states that this can include proposals that incorporate opportunities for exercise.

East Renfrewshire Local Development Plan 2

Strategic Policies 1 and 2 and Policies M1, M2, M2.2, D1, D2, D4, D5, D6, D7, D8, D9, D10, D11, SG1, SG2, SG4, SG7 E1, E2, E5, E6, E7 and E8 of the adopted East Renfrewshire Local Development Plan 2 are also relevant to this development.

Strategic Policy 1 confirms that the Council will take a master planned approach to development at Barrhead South – Springhill, Springfield. The development strategy will create sustainable, well designed, connected, healthy, safe and mixed communities and places. Proposals should be

designed to promote the health and wellbeing benefits of the development for people of all ages, abilities and backgrounds and demonstrate economic, social and environmental benefits.

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

Policy M1 states that proposals must conform to the relevant master plan and other relevant policies of the LDP. A phasing and delivery strategy will be required.

Policy M2 states that the Council supports the master planned growth of Barrhead in accordance with Policy M1 and Policy M2.2.

Policy M2.2 states that development within the Barrhead South SDO, will be acceptable in principle in accordance with Policy M1 and M2, and its supporting master plan. The masterplan identifies retail uses within the area.

Policy D1 requires that all development should not result in a significant loss of character or amenity to the surrounding area and that safe and functioning pedestrian, cycle and vehicular access and car-parking is provided.

Policy D2 supports development within the general urban area where it is appropriate in terms of its location, scale and will not lead to a significant loss of character or amenity to the surrounding area. Proposals must also comply with other relevant policies of the plan.

Policy D4 states that the Council will seek to protect and enhance the green and blue network.

Policy D5 stated that the Council will protect and support a diverse and multi-functional network of urban greenspace.

Policy D6 sets out the minimum open space requirements for new developments.

Policy D7 states that development affecting trees, groups of trees or areas of woodland that make a significant positive contribution to the setting, amenity and character of the area will only be permitted where these features are incorporated into the development through design and layout. Furthermore, there will be a strong presumption against development that would compromise the overall integrity of a Local Biodiversity Site. Adverse effects on species and habitats should be avoided with mitigation measures provided wherever this is not possible.

Policy D8 states that proposals will be required to prioritise active travel and to demonstrate a clear sustainable movement hierarchy favouring walking, then cycling, public transport, then the private car in accordance with Designing Streets. Proposals will require to be accessible and permeable by foot and cycle, providing new and enhanced links which connect to existing and proposed walking, cycling and green networks, as well as to public transport networks.

Policy D9 states that the Council will continue to protect, enhance and extend existing and proposed active travel and outdoor access networks including core paths, rights of way, strategic cycle corridors and green networks. Proposals will be required to satisfy core active travel design principles of safety, coherence, directness, comfort and attractiveness.

Policy D10 states that proposals will be required to comply with the principles of Designing Streets and demonstrate that they will have no significant adverse impact upon road safety and the capacity of the surrounding road network. Proposals should ensure that the required upgrades to infrastructure resulting from development are provided in accordance with Strategic Policy 2.

Policy D11 states that major residential proposals will be required to incorporate electric vehicle charging points or passive provision for charging points within every dwelling with a garage or driveway, and to make provision within visitor parking or communal parking spaces. Where

residential dwellings do not have parking within their curtilage, provision should be made for charging points on-street or within communal parking spaces.

Policy SG1 allocates land for new housing. The application site is comprised of two housing sites (SG1.7 & SG1.9) as defined in the LDP2. Housing site SG1.7 (Springfield Road/Balgraystone Road, Barrhead) has a capacity of 117 houses. Housing site SG1.9 (Springfield Road, Barrhead) has a capacity of 280 houses. Both sites form part of the established land supply 2019-2031.

Policy SG2 states that the Council will require residential proposals to provide a mix and choice of dwelling types, sizes and tenures to meet housing needs, including for people with a disability, older people, families and individuals, to widen housing choice and contribute towards the creation of sustainable mixed communities. The different types and sizes of housing are required to be well integrated throughout the development.

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

Policy SG7 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 E1 states that development proposals will be required to make efficient and sustainable use of existing land within the urban areas. Development proposals must incorporate sustainable and energy efficient design and construction methods and be built to meet a minimum of silver sustainability standard.

Policy E2 states that proposals adjacent to existing or proposed heat networks should be designed to be capable of connecting to the heat network or, for major developments, provide a new heat network within the site. This includes safeguarding sufficient capacity within the sites infrastructure to allow pipework to be connected. Land required for the heat network infrastructure, including for energy centres, should be protected.

Policy E5 states that a noise impact assessment may be required where the proposed development may cause or exacerbate existing noise levels or be sensitive to levels of existing noise in the area. Where it is not possible to separate noise generating uses and noise sensitive land uses, developers will be required to incorporate good acoustic design.

Policy E6 states that proposals should seek to protect and enhance the water environment in terms of its ecological status, green networks and biodiversity.

Policy E7 states that the Council will take a precautionary approach to flood risk, including fluvial and pluvial. It also states that there will be a general presumption against proposals for built development or land raising on functional floodplains or in areas where there is a significant probability of flooding and that land raising will only be considered in exceptional circumstances and where it is shown to have a neutral or better impact on flood risk outside the raised area. The Council will safeguard the storage capacity of the floodplain.

Policy E8 states that development proposals are required to integrate well-designed and naturalised sustainable urban drainage systems to manage drainage and water quality.

DETAILED CONSIDERATION

Principle of the development

In terms of the relevant land use designation of the site in LDP2, there are a number of policies of relevance, which set out the key principles of any development of the site. Strategic Policy 1: Development Strategy sets out the Council's approach to development, which includes a master planned approach to development of Strategic Opportunity locations, including Barrhead South.

The site lies within the M77 Strategic Development Opportunity (Barrhead South, Springhill, Springfield, Lyoncross), as set out in Policy M2.2. Policy M2.2 states that development within the Barrhead South SDO will be acceptable in principle in accordance with Policy M1 and M2 and its supporting master plan which sets out a comprehensive approach to the delivery and phasing of sites. The master plan seeks integration of areas at Springhill, Springfield and Lyoncross as a sustainable urban expansion with Barrhead accommodating mixed houses, a landscape framework, neighbourhood centres, opportunity for home working through live/work homes and community/leisure facilities.

Policy SG1: Housing Supply, Delivery and Phasing of LDP2 sets out the housing needs for all tenures up to 2031. The application site an allocated housing site within the Barrhead South housing allocation with specific references of SG1.9 (Springfield Road) and SG1.7 (Springfield Road/Balgraystone Road).

Policy SG6: Business Proposals states that the Council will support employment operating uses at specific locations. This includes Barrhead South SDO for a new neighbourhood centre - mixed use retail/commercial development, as set out in schedule 18 (SG6.1) and schedule 20 (SG11.2) of LDP2.

Policy D4: Green Networks and Infrastructure states that the Council will protect, promote and enhance a multi-functional and accessible green network across the Council area. In this regard, the site lies within the Barrhead South SDO (site 4.2 of Schedule 3) which states the requirement for an enhanced green network incorporating biodiversity and landscape improvements, paths and open space and play provision.

Policy 8: Sustainable Transport Networks states that the Council will support the development of a sustainable and integrated transport network. In this regard, the site is covered by reference D8.5 of Schedule 6 which seeks access enhancements and new path networks.

In terms of the proposed development relative to the above policies, it is considered that the proposal does not conflict in principle with any of the strategic aspirations for the site in that the proposal includes mixed tenure, housing, extensive and integrated open space and recreational facilities, a neighbourhood centre and enhanced path networks. In relation to the visual impact of the site on the wider area, it is recognised that the site occupies an elevated position and as such the development will result in a substantial visual change locally. The retention of existing landscape features on the site and the areas of development, which respond generally to local topography, however, will help to reduce any landscape impacts of the development to an acceptable level. The house types proposed and associated features are considered to facilitate working from home adequately.

As such, the proposal is considered to be comply with Strategic Policy 1 and Policies M1, M2, M2.2, SG1, SG6, D4 and Policy 8 of LDP2. In terms of housing capacity, the estimated housing capacity remaining for the development of this site is for 358 housing units. The proposal at 346 units therefore falls within this identified capacity and is in compliance with the Policy SG1 of LDP2.

Affordable housing and development contributions

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. In terms of affordable housing, Policy SG4 Affordable Housing and the adopted Supplementary Guidance on Affordable Housing (June 2023) are applicable. The Council's policy requires a minimum 25% affordable housing contribution where planning permission is sought for residential developments of 4 or more dwellings.

A specific affordable housing framework has been approved by the Council for this site within the Barrhead South master plan area, which reflects the early delivery of social rented units by the Council at Balgraystone Road.

The 25% affordable housing requirement for this site is as follows:

- 8.5% on-site Entry Level for Sale Homes, limited to 800sqft in size, unsubsidised, developed and sold by the developer on the open market;
- 8.5% of units exercised as an Affordable Housing Commuted Sum (already included in the per unit development contribution sum agreed for Barrhead South Master Plan area sites); and
- 8% (the remainder of the 25% affordable housing requirement) exercised as a further commuted sum, to be determined separately in line with council's Affordable Housing Supplementary Guidance, and be paid early, within 28 days of the grant of any future planning permission, so that it can support the Council's current new build programme.

It is noted that one of the regeneration requirements of Barrhead is increased tenure choice. Provision of unsubsidised entry level for sale homes will help to retain and attract first time buyers, young professionals and families essential to East Renfrewshire's prosperity. The submitted drawings show that 30 on-site entry level for sale homes are proposed, which represents 8.67% of the total number proposed and as such meets the affordable housing framework requirements.

Strategic Policy 2: Development Contributions and the adopted Supplementary Guidance on Development Contributions (June 2023) applies in relation to development contributions. In this case, per unit development contributions have been agreed with the applicant and include payments for the following (in addition to affordable housing): education (pre-five, primary and secondary); Dams to Darnley Country Park; Green Network, path network and access integration; Community Facilities (Community Halls & Libraries and Sports); and Parks and Open Space.

A section 75 legal agreement will be required to be agreed, finalised and registered before planning permission is granted to secure the development contributions and affordable housing requirements outlined above.

Given the above, the proposal is considered to comply with Strategic Policy 2 and SG4 of the LDP2 and Policies 18 (Infrastructure First) and Policy 16 (Quality Homes) of NPF4, which seek to ensure that developments address impacts on infrastructure and make sufficient provision for affordable homes.

Local living and climate change

Given the site's location, and connections with the wider public road and footpath network, the site is relatively easily accessible via a range of transport options (including the proposed new train station/rail halt adjacent to the southwest corner of the site). 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.

Policy 15 (Local Living and 20 minute neighbourhoods) states that development proposals will contribute to local living including and, 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, including local access to: sustainable modes of transport, employment, shopping, health and social care facilities, childcare, playgrounds, parks, recreation facilities, publicly accessible toilets and affordable and accessible housing options. In relation to Policy 15, it is noted that the site benefits from substantial open space and adequate play facilities, close and accessible access to public transport, on site retail/commercial facilities, and a range of house types and tenures. Although the site is on the edge of the town, access to Barrhead town centre and a variety of amenities is relatively straightforward and direct, including direct access to Dams to Darnley Country Park. The average density of the site is approximately 16 dwellings per hectare, which is fairly low density, however is considered acceptable given the site location and context in relation to surrounding

built form. Overall, the site is considered to accord with the provisions of the development plan in terms of local living.

In terms of climate change considerations, it is recognised that the proposal will result in the loss of some trees and countryside land and will result in extra emissions through construction. However, there is a recognised need and demand for housing and the site is part of a comprehensive and planned strategic release of housing, which includes a range of facilities and house types, access to good quality green space, with the development overall contributing positively to the local area.

It is therefore considered that the proposal would not raise significant conflict with Policies 1, 2 or 15 of NPF4.

Tree loss and impact on biodiversity

The Tree Survey Report, submitted in support of the application, indicates that 60 trees were individually surveyed within the site. Of those trees, approximately half are to be retained, primarily in key groupings adjacent to Springfield Road and also a group running at right angles from Balgraystone Road, which are identified to be retained with the masterplan. Policy 6 (Forestry, woodland and trees) of NPF4 seeks to minimise the loss of woodland and to protect ancient woodland and veteran trees from an adverse impacts. In this regard, it is noted that the development will not result in the loss of any areas of woodland or veteran trees and that substantial additional woodland planting is proposed. It is noted that at certain parts of the site (in particular the western boundary) there are some level changes in close proximity to existing trees on the boundary of the adjacent property. In order to ensure that the proposal does not have a detrimental impact on trees and amenity, it is considered necessary for a condition to be imposed requiring amendments/mitigation to development adjacent to this boundary. Further conditions can be imposed relating to the development site to ensure that appropriate tree protection measures are in place, where required. Taking the above into account, with the imposition of conditions, it is considered that the proposal does not conflict with the terms of Policy 7 of LDP2 or Policy 6 of NPF4 in respect of impact on trees.

The submitted landscaping details state that native hedgerows and woodland are to be used as buffers surrounding the development which will link with the existing trees and provide a robust corridor for wildlife for travel, shelter and food. Strands of native hedgerow and trees are specified as well as amenity grassland and wildflower meadows which will provide varying habitats for wildlife as well as creating an interesting space for residents. The streets are proposed to be lined with trees and hedges to provide interest and height and attract wildlife. Shrubs and herbaceous perennials are specified at key points throughout the development. An opening at the base of the back fences will provide a highway for hedgehogs.

The Ecological Assessment submitted in support of the application states that that no protected species were found on the site. The Springfield Disused Railway East Renfrewshire Local Biodiversity site lies within the site and the Dams to Darnley Country Park is located directly adjacent to the site boundary and shares ecological connectivity with the site. Policy 3 of NPF4 states that proposals for a major development 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. The applicant has submitted a landscape strategy and detailed landscaping details to support the application. The strategy includes extensive native trees and shrubs, wet meadow planting, and retention of ponds, with riparian hedgerow planting. In terms of Policy 7: Natural Environment Features, it is noted that the central part of the site covered by the local biodiversity site will be retained as open space and further enhanced through additional planting. The applicant has advised that 742 individual trees will be planted, in addition to proposed areas of native woodland and hedgerow mix. The applicant has advised that the total area to be planted is approximately 1.3ha.

Overall, it is considered that the development will result in an enhancement of biodiversity within the site compared to the current situation, therefore in compliance with Policy 3. Further, the proposed landscaping measures will adequately protect existing features on the site, in compliance with Policy 7 of LDP2. It is also considered that the proposed retention and

enhancement of existing landscape features at the site is in compliance with Policy 20 (Blue and green infrastructure) which seeks to prevent the fragmentation of net loss of existing blue and green infrastructure.

Design and layout

The Barrhead South Masterplan (June 2015) is a material consideration relevant to the assessment of this planning application. This documents sets out key principles including land use and built form, access, engineering and infrastructure (including drainage), greenspace, landscape and biodiversity relevant to this site. Policy 14 or NPF4 states that development proposals will be supported where they are consistent with the six qualities of successful places, i.e. healthy, pleasant, connected, distinctive, sustainable and adaptable. Policy D1: Placemaking and Design states that development should be well designed, sympathetic to the local area and demonstrate compliance with the 6 qualities of successful places and 20 criteria listed.

The masterplan includes detailed information on roads and transportation matters, location of suds pond, principles of layouts and street design, retention of key connections, as well as green networks and open space. In terms of open space and connectivity of green infrastructure, the proposed development broadly follows the principles set out in the masterplan. The masterplan includes the indicative location of a new railway station to the south-west corner of the site. The location of the proposed railway station is not included within this application site but it is recognised that work is ongoing with regard to the delivery of this facility. The application includes details of a neighbourhood centre consisting of 4 commercial units totalling approximately 720 square metres, together with 24 car parking spaces. The neighbourhood centre is positioned to the north of the site in close proximity to a pedestrian and vehicle access point on Springfield Road. The masterplan does not include any indicative position for a neighbourhood centre and it is considered, that, although not centrally located to the site, the commercial units will bring positive benefits for future residents and existing housing in the locality in terms of access to local facilities.

The housing layout consists of a mixture of detached, semi-detached and terraces housing located in four separate but connected areas, positioned around the green network connections that run primarily north of the railway line at the south of the site and also through the central part of the site, running northwest to southeast. The open space and pedestrian connections are designed to be overlooked at key parts of the site, with other part of the open space bounded by rear garden fences and landscaping. While, in general, the preference is that all open spaces and pedestrian routes are overlooked to provide for attractive and safe routes and recreational areas, it is recognised that partial overlooking along stretches of open space and paths can work effectively, where the landscaping allows for relatively open views. In this regard, it is considered that the proposal layout is acceptable in terms of the provision of a path network and recreational open space that is adequately useable and overlooked to encourage walking and cycling.

In terms of street design, it is considered that the proposal generally complies with the principles of Designing Streets and, as noted, the Roads Service have no objections to the proposals, subject to conditions. The layout consists primarily of dwellings with direct frontage to streets, with larger dwellings having in curtilage parking and terraced properties generally with parking outwith the curtilage but directly accessed from the street in front of the properties, to provide security through surveillance. The street layout generally has a good degree of permeability with routes largely direct both within housing areas and through areas of open space.

In terms of open space, the proposal significantly exceeds the minimum requirements for amenity open space, as set out in Policy 6: Open Space Requirements in New Developments of LDP2. However, a significant number of the private gardens fail to meet the specific size and configuration requirements as set out in the adopted Supplementary Planning Guidance: Green Networks. In particular, it is recognised that the terraced properties do not conform to the guidance which states that private gardens will be expected to be 1.5 times the ground floor area of the houses or 50 square metres, whichever is the greater. The majority of the terraced properties have garden sizes close to 50 squares metres but do not meet the 1.5 times ground floor area threshold. In this regard, while it is recognised that the proposal does not meet the standards set out in the Supplementary Planning Guidance, given the level of open space

provided as part of the development, a reduced level of rear garden ground for some plots is considered acceptable in this instance, and not sufficient reason for refusal.

Policy D1 includes a general presumption against land raising. In this regard, it is noted that the proposed layout includes substantial changes in levels on parts of the site, including retaining structures. While the majority of retaining walls within the internal parts of the development (between dwellings) are under 1m there are two smaller areas in the central part of the site, in particular, that have some retaining walls between gardens of approximately 3m, as well as other areas where there are some limited walls of between 2m and 3m. Parts of the site periphery, and in particular at the western boundary of the site, also include a substantial change in levels of almost 4m. This arrangement, along part of the boundary to Springfield House is considered to require further consideration and/or mitigation and as such it is recommended that any planning permission includes a condition specifying the need to consider appropriate levels and/or stand-off distance from trees on the western boundary of the site. On balance, the level of retaining walls between properties across the site is considered acceptable in design and amenity terms.

The proposed houses within the site are designed with a variety of finishes consisting primarily of light coloured render, stone facing features, light coloured facing brick and either grey or red roof tiles. The housing would be constructed in a traditional style with pitched roofs, a mixture of gables and hip roof designs, with some integral garage and Juliet balconies. The majority of dwellings are two storey, with a more limited number of three storey, end terrace dwellings. Timber fencing with stone piers are also planned within parts of the site. The detailed design features are considered acceptable and will integrate reasonably successfully with the local character.

The neighbourhood centre would consist of flat roofed, single storey buildings, with one larger unit at 6m in height and three smaller units at approximately 4m in height. The proposals include parking space to the front of the site facing, but set back from Springfield Road. In terms of visual impact on surrounding properties, it is noted that the proposed commercial units would be positioned at least 40m from the closest residential boundary on Springfield Grove and further that the proposed plans include retention of the three existing trees adjacent to Springfield Road. Given the separation distance and intervening vegetation, it is considered that any visual or noise disturbance resulting from vehicle movements and activity associated with the commercial units will not result in significant detrimental impact for residents on Springfield Grove.

Overall, the proposal is considered to be a relatively well designed residential led development and incorporates design features that will result in a successful urban extension to Barrhead. As such, the proposal is considered to comply with Policies D1 of LDP2 and D14 of NPF4 in respect of design and Policy SG2 in terms of the proposed housing mix.

Traffic, access and environmental impacts

The proposal includes four vehicle access points to the site, two on Springfield Road and two on Balgraystone Road. There are also dedicated pedestrian/active travel routes through the site with the main connection points being to the south of the site, to the proposed train station and Dams to Darnley Country Park, to the east of the site, connecting with Aurs Road active travel route and to the north of the site, connecting with Springfield Road. As stated above, the street layout also helps to encourage pedestrian movement. Therefore, the proposal is considered to provide good quality connections that will encourage active travel and reduce the necessity for some car journeys. It is noted that the Roads Service has raised some concerns in relation to the lack of a dedicated active travel facility on Springfield Road (3m wide pedestrian/cycle link) and the lack of a further connection to Aurs Road, which would benefit connectivity to key facilities such as Barrhead High School. In this regard, it is noted that two pedestrian crossing points are proposed on Springfield Road (a Toucan crossing and Puffin crossing), which will allow connectivity with footways to the north of Springfield Road, on Oakbank Drive and Maple Drive. Despite this, it is recognised that for pedestrians, in particular, seeking to travel north on Aurs Road from the north-eastern part of the site, the crossing point provided would require an additional walking distance in comparison to the most direct route. There is a direct pedestrian connection to Aurs Road on the eastern side of the site, albeit it is recognised that this is not at the most direct point for some residents, which would be at the north-east corner of the site. Despite this, the proposal is considered to provide adequate safe and direct active travel connections to the wider area in accordance with the provisions of Policy D8: Sustainable Transport Networks, Policy D9: Access and Policy D10: Transport Impact of

LDP2. A number of other issues raised by the Roads Service in relation to the detailed design of the housing layouts can be conditioned.

In relation to environmental impacts, it is noted that a number of representations have been received from residents on Springfield Grove in relation to concerns over the impact of the proposed neighbourhood centre and in particular additional traffic movements, noise, pollution, litter and vermin issues associated with the commercial area. In this regard, it is noted that the proposed neighbourhood centre is relatively modest in size at approximately 720 square metres and further that 24 dedicated spaces are provided to serve the proposal. Given the parking options within the site it is considered unlikely that passing trade would find it more convenient to park on Springfield Road and walk to the neighbourhood units. The concerns over noise and disturbance are noted. A condition can be imposed on the commercial units so that any hot food takeaway would need a further, specific planning permission. This would allow a detailed assessment of impacts to take place including further consideration of impacts on neighbouring residents. Environmental Health have advised that conditions should be imposed in relation to noise and lighting. With the imposition of conditions (including the submission of a dust management plan), the proposal is considered to be in accordance with Policies E3: Protecting Air Quality and E5: Noise Impacts of LDP2 and Policy 23 of NPF4.

Other relevant matters

There are a number of other policies of relevance to this assessment, as detailed below.

Policy 12 of NPF4 (Zero waste). This policy states that development proposals that are likely to generate waste when operational, including residential, will set out how much waste the proposal is expected to generate and how it will be managed, including provision to maximise waste reduction and waste separation at source, and measures to minimise the cross contamination of materials through segregation and storage of waste, convenient access for the collection of waste recycling and localised waste facilities. The applicant has not provided details of proposed waste arrangements for the site, however this matter can be conditioned.

Policy 16 of NPF4 (Quality Homes) states that development proposals that include 50 or more homes should be accompanied by a Statement of Community Benefit, to include information the development in relation to its contribution to meeting local housing requirements, providing or enhancing local infrastructure and improving the residential amenity of the surrounding area. The applicant has submitted information to state that the proposal will result in £65 million of capital investment, will create 192 construction jobs and will provide 346 new homes, 30 of which are entry level. The neighbourhood centre will also provide further employment opportunities. It is considered that the information submitted is sufficient in terms of the requirements of Policy 16.

Policy 21 of NPF4 (Play, recreation and sport) states that development proposals likely to be occupied or used by children and young people will be supported where they incorporate well-designed, good quality provision for play, recreation and relaxation that is proportionate to the scale and nature of the development and existing provision in the area. Development proposals that include new streets and public realm should be inclusive and enable children and young people to play and move around safely and independently. The proposal includes two play areas, a village green and an extensive path network through areas of green space, including a 3m wide active travel route running east to west through the site. The streets are designed to be overlooked, with traffic naturally calmed through variation of surface materials and road geometry/lack of long, straight sections. Overall, it is considered that the opportunities for play, both formal and informal, are acceptable and the proposal therefore is in compliance with Policy 21 of NPF4.

Policy 22 of NPF4 (Flood risk and water management) states that development proposals will not increase the risk of surface water flooding to others and manage all rain and surface water through sustainable urban drainage systems (SUDS) which should form part of and integrate with proposed and existing blue-green infrastructure. The applicant has submitted a flood risk assessment which has identified a small area within the central part of the site that is at risk of pluvial flooding (rainfall generated surface water run off). There are no other risks of flooding identified. The proposal includes two SUDS ponds and surface water drainage details. It is considered that the proposal complies with Policy 22 of NPF4 and Policy E7 of LDP2 as sufficient detail has been provided to

demonstrate the flood risk and drainage has been adequately considered and planned for in the development. Further, the proposal is considered acceptable in terms of potential impacts on the water environment, as per the requirements of Policy E6: Water Environment of LDP2.

Policy 28 of NPF4 (Retail) states that proposals for new small scale neighbourhood retail development will be supported where the proposed development contributes to local living, including where relevant 20 minute neighbourhoods and can be demonstrated to contribute to the health and wellbeing of the local community. The proposals include a relatively small neighbourhood centre, which is considered to be an appropriate size for this scale of development and will contribute to local living for the future residents of the development. As such, the proposal is considered to comply with Policy 28 of NPF4.

Policy D11: Electric Charging Infrastructure of LDP2 states that major residential proposals will be required to incorporate electric vehicle charging points or passive provision for charging points within every dwelling with a garage or driveway and to make provision for on-street charging or within communal spaces. Policy E1: Sustainable Design states that proposals will require to demonstrate compliance with criteria, including sustainable and energy efficient design and materials. It is noted that the provision of dedicated charging facilities is now a building warrant requirement, as are energy efficient design techniques. It is considered that planning conditions can be imposed to ensure compliance with Policy E1 of LDP2.

Policy 23 of NPF4 (Health and safety) seeks to prevent developments that are likely to have a significant adverse effect on health will not be supported. Further, proposals that are likely to have a significant adverse impact on air quality or raise unacceptable noise issues will not be supported. In this regard, it is considered that the proposal will provide sufficient recreational spaces and opportunities for positive interactions which will assist with providing positive health outcomes. It is considered that the proposals will not have any significant impacts on air quality or noise that cannot be controlled adequately by planning conditions. Furthermore, the close proximity of the proposed train stations and extensive pedestrian connections within the site and to surrounding routes and open space are a positive benefit. A condition can be imposed regarding further site investigations of ground conditions. As such, the proposal is considered to be in compliance with Policy 23 of NPF4.

REPRESENTATIONS

The matters of objection not assessed above are now considered below.

Discussions between the developer and the public during the consultation event are not a material consideration. The neighbour notification process must be initiated when the application is validated. In accordance with legislative requirements, neighbour notification letters were distributed to all properties within 20m of the site and the application was advertised in the local press. The term "neighbourhood centre" is well established in planning policy and guidance. The need for a neighbourhood centre is established in the masterplan for the area. The impact on education provision locally has been considered and taken into account, with school capacities designed to include allocated housing sites in LDP2. The impact on health infrastructure from new housing developments is currently not taken into account when assessing planning applications. Any potential impacts on crime or anti-social behaviour resulting from additional residents from new housing are not considered to be a material consideration that can be given substantial weight in the assessment of this application given that the site is allocated as a housing site in the development plan and there is a recognised need for housing. Police Scotland are directly responsible for enforcing anti-social behaviour issues. The proposed neighbourhood centre is considered to be of appropriate scale for the area and will not have a detrimental impact on the viability of Barrhead town centre as a commercial/retail centre. The proposal of application notice submitted by the applicant described the proposal as a residential development (including potential for neighbourhood centre). The pre application process carried out by the applicant was considered to comply with statutory legislation.

CONCLUSION

Taking all relevant matters into account, the proposed development is considered to be in compliance with the development plan, as outlined in the preceding paragraphs. It is noted that several representations have been received and these have been taken into account, however the matters raised are not considered to outweigh the relevant development plan policies in favour of this development. As such, the recommendation is for approval, subject to conditions and conclusion of a legal agreement.

RECOMMENDATION: Disposed to grant subject to conditions following the conclusion of a legal agreement relating to affordable housing and development contributions.

PLANNING OBLIGATIONS: Should the application be approved a legal agreement relating to affordable housing, education, Dams to Darnley Country Park, green network, path networks and access integration, community facilities, parks and open space.

CONDITIONS:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permission limiting its duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

2. Development shall not commence until details of the phasing of the development have been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, each phase of the development shall not commence until details of the phasing/construction schedule for the phase in question have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the approved phasing scheme/construction schedule unless otherwise agreed in advance by the Planning Authority.

Reason: In order to ensure a properly programmed development.

3. Notwithstanding the general terms of condition 2 above and unless otherwise agreed in writing with the Planning Authority, the neighbourhood centre and associated parking and access works hereby approved shall be fully operational prior to the completion of the 10th last dwellinghouse within the development.

Reason: In order to ensure a properly programmed development and to ensure the planned commercial facilities are provided to serve the development.

4. Development shall not commence until samples of materials to be used on all external surfaces of the building and hard surfaces 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 that the development is acceptable in appearance.

5. Development shall not commence until details and location of all walls (including retaining walls and structures) and fences to be erected on the site 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 that the development is acceptable in appearance.

- 6 Unless otherwise agreed in writing with the Planning Authority, the Neighbourhood Centre Units are hereby approved as Class 1a and Class 3 units as defined by the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended).

Reason: To ensure the appropriate mix of uses is provided within the site, in the interests of protecting amenity.

7. Prior to the opening of any unit in the neighbourhood centre hereby approved, details of any ventilation and extraction systems required shall be submitted to and approved in writing by Planning Authority and thereafter fully implemented on site as approved prior to the commencement of operations.

Reason: To protect local residents from nuisance resulting due to the disposal of cooking odours.

8. The car-parking spaces shown on the submitted layout plan for the Neighbourhood Centre hereby approved shall be constructed, surfaced and delineated on the site in all respects before the building hereby permitted is brought into use.

Reason: To ensure the provision of adequate parking facilities to reduce the incidence of roadside parking.

9. Development shall not commence until a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:-

- i) Details of any earth mounding, hard landscaping, grass seeding and turfing;
- ii) A scheme of tree and shrub planting, incorporating details of the number, variety and size of trees, shrubs and other planting to be planted;
- iii) Other structures such as street furniture;
- iv) Details identifying areas of public open space and/or areas of common ownership;
- v) Details of the phasing of the landscaping works;
- vi) Proposed levels;
- vii) Schedule of maintenance and a management scheme to ensure that the landscaped areas and other areas of common ownership are maintained to an approved standard for a period of five years.

Any trees, shrubs or areas of grass which die, are removed, damaged or diseased within five years of the completion of the landscaping shall be replaced in the next planting season with others of a similar size and species.

For clarification, all planting proposed are to be native species.

Thereafter the landscaping works and maintenance and management scheme shall be fully implemented as approved.

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

10. Notwithstanding the plans hereby approved, development shall not commence until a scheme for the provision of the play areas on site has been submitted to and approved in writing by the Planning Authority and shall include:
- a) details of the type and location of play equipment, seating and litter bins to be situated within the play area(s);
 - b) details of the surface treatment of the play area, including the location and type of safety surfaces to be installed;
 - c) details of fences to be erected around the play area(s);
 - d) details of the phasing of these works shall take cognisance of the phasing details of Condition 2 to ensure the formation of Play Area 1 and 2 by the occupation of 200 houses.
 - e) details of the future maintenance of the play area(s).

For the avoidance of doubt, the scheme shall include active play/sport facilities.

Reason: To ensure that appropriate recreational facilities are provided to serve the development.

11. Notwithstanding the drawings hereby approved and prior to the start of development, further details of the finish surfacing for all footpaths shall be submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt all footpaths shall be designed and constructed to allow access for all.

Reason: To ensure that the proposal is constructed to ensure accessibility.

12. The principles of Sustainable Urban Drainage Systems (SUDS) for the surface water regime shall be incorporated into the development. Development shall not commence on each individual phase of the development until details of the surface water management and SUDS proposals, including specific details of each SUDS area, have been submitted to and approved in writing by the planning authority. For the avoidance of doubt the maximum discharge rate from the site shall be 8 litres per second per hectare. Thereafter the surface water management details shall fully be implemented as approved.

Reason: In the interests of sustainable development and to ensure that satisfactory drainage arrangements are provided.

13. Prior to the start of development, a Dust Management Plan (providing specific guidance on the methods which should be employed to minimise dust emissions during the ground work and construction phases of the proposed development) shall be submitted to and agreed in writing by the Planning Authority.

Reason: To provide protection from environmental disturbance resulting from dust.

14. Notwithstanding the consent hereby approved, surveys for protected species shall be undertaken within a year of the last survey if the development has not started within the said time period. The surveys shall be approved in writing by the Planning Authority in advance, along with any mitigation including phasing of development, prior to works commencing on site.

Reason: To protect protected species and to allow the Planning Authority to consider these matters further.

15. No development shall take place until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

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

16. Development shall not commence until details of vehicle wheel cleaning facilities and a road cleaning strategy have been submitted to and approved in writing by the Planning Authority. Thereafter the approved vehicle wheel cleaning facilities and road cleaning strategy shall be implemented as approved.

Reason: To ensure mud and deleterious materials are not transferred to the road.

17. 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 such activities 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.

Reason: To prevent noise nuisance to the surrounding area.

18. For the avoidance of doubt and unless otherwise agreed in writing with the Planning Authority, no development or ground disturbance (other than work required to provide approved access routes and landscaping) shall take place within the established Local Biodiversity Site.

Reason: To ensure that the development does not have a detrimental impact on biodiversity.

19. The mitigation measures identified in the Noise & Vibration Impact Assessment (as revised) shall be implemented in full before any dwelling which is identified in the said assessment as requiring the mitigation measures is occupied.

Reason: To minimise impact of noise on future residents.

20. Prior to commencement of the development, a scheme shall be submitted to and approved in writing by the Planning Authority setting out the measures that have been or will be put in place within the site as required by the Local Development Plan 2 Policy E1 (Sustainable Design). 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 Plan 2.

21. Prior to commencement of any works on site, a comprehensive site investigation, carried out to the appropriate level, shall be submitted to and accepted in writing by the Council as Planning Authority. The investigation shall be completed in accordance with the advice given in the following:

(i) Planning Advice Note 33 (2000) and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995);

(ii) Contaminated Land Report 11 – ‘Model Procedures for the Management of Land Contamination (CLR 11) – issued by DEFRA and the Environment Agency

A site-specific risk assessment must be undertaken. Should any significant pollutant linkages be identified, a detailed remediation strategy must be developed. No works other than investigative works shall be carried out on site prior to receipt of the Council's written acceptance of the remediation plan.

Remediation of the site shall be carried out in accordance with the accepted remediation plan prior to the proposed development being brought into use. Any amendments to the accepted remediation plan shall not be implemented unless approved in writing by the Council as Planning Authority. On completion of the remediation works, the developer shall submit a completion report to the Council as Planning Authority, confirming that the works have been carried out in accordance with the accepted remediation plan and that the works have successfully reduced these risks to acceptable levels.

Any previously unsuspected contamination which becomes evident during the development of the site shall be brought to the attention of the Council as Planning Authority within one week or earlier of it being identified. A more detailed site investigation to determine the extent and nature of the contaminant(s) and a site-specific risk assessment of any associated pollutant linkages, shall then require to be submitted to and approved in writing by the Council as Planning Authority.

Reason: In the interests of public health.

22. Notwithstanding the plans hereby approved, no approval is hereby given for the site levels, retention and engineering works associated with plots 27 to 29. Prior to the commencement of development a scheme (including revised plans as necessary) for mitigation of potential impacts on the property and trees to the west of the site shall be submitted to and approved in writing by the Planning Authority. The revised details shall thereafter be implemented as agreed.

Reason: In the interests of protecting the amenity of neighbouring occupiers.

23. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with LDP Policy D7 and NPF4 policy 3 Biodiversity.

24. No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the Planning Authority.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting.

25. Notwithstanding the plans hereby approved, prior to the start of development, details of the hierarchy, horizontal geometry/ alignment of the road networks associated with all individual residential pods will require to be submitted to and agreed in writing by the Planning Authority.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

26. Prior to the start of development, details of the location of the following pedestrian crossing features shall be submitted to and agreed in writing by the Planning Authority:

- a) Toucan crossing on Springfield Road
- b) Puffin crossing on Springfield Road
- b) Zebra crossing on Balgraystone Road

The implementation of these crossings shall take place at the appropriate phase of development, which shall be agreed in writing with the Planning Authority prior to the start of development, as required by condition 2.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

27. Notwithstanding the plans hereby approved, and unless otherwise agreed in writing the Planning Authority, the junctions of all new roads with the existing Springfield Road/Balgraystone Road will require to have visibility splays of 4.5m x 90m x 1.05m in both the primary and secondary directions. No vegetation, landscaping, structures or fencing over 1.05m in height will be permitted within this splay (unless otherwise agreed by the Roads Service).

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

28. Notwithstanding the plans hereby approved, all residential road junctions within the individual residential pods will require to have a minimum visibility splay of 2.5m x 25m x 1.05m in both the primary and secondary directions. No vegetation, landscaping, structures or fencing over 1.05m in height will be permitted within this splay (unless otherwise agreed by the Roads Service).

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

29. Notwithstanding the plans hereby approved, and unless otherwise agreed in writing with the Planning Authority, a forward sight stopping distance splay of 90m shall be provided on Balgraystone Road and Springfield Road in proximity to the following:

- a) The proposed development access junctions
- b) Any new pedestrian cycle crossing points

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

30. Notwithstanding the plans hereby approved, and unless otherwise agreed in writing with the Planning Authority, a forward sight stopping distance splay of 25m shall be provided on all the residential roads within the individual residential pods at any significant changes in the horizontal alignment.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

31. Notwithstanding the plans hereby approved, prior to the start of development, details of the visitor parking provision (i.e. quantity, distribution and location of such) for all residential roads shall be submitted to and agreed in writing by the Planning Authority

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

32. Notwithstanding the plans hereby approved, prior to the start of development, the dimensions, layout and location of all individual driveways, shared access to private driveways and private courtyards shall be submitted to and agreed in writing by the Planning Authority.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

33. Notwithstanding the plans hereby approved, the connection of all private driveways, shared accesses and entrances to private courtyards with the public road network will require to have a minimum visibility splay of 2.0m x 20m x 1.05m. No vegetation, landscaping, structures or fencing over 1.05m in height will be permitted within this splay.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

34. Notwithstanding the plans hereby approved, where all private driveways, shared access and entrances to private courtyards are juxtaposed adjacent an adoptable footway/ cycleway or shared surface area, a visibility splay of 2m back from the edge of the driveway and 5m from the edge of an indicative parking space/ access/ courtyard entrance should be provided. No vegetation, landscaping, structures or fencing over 1.05m in height will be permitted within this splay.

Reason: To ensure an adequate inter-visibility between vehicles exiting the driveway/access/ courtyard and pedestrians/ cyclists on the adjacent footway/ shared surface, in the interests of road safety.

35. Notwithstanding the plans hereby approved, the layout of the road network shall be suitable such that servicing of all developments fronting onto the potentially adoptable road network (i.e. refuse collection, delivery of goods) can be achieved. In this respect vehicle tracking of the largest vehicle regularly travelling along the various hierarchies of roads must be submitted to and agreed in writing by the Planning Authority prior to the start of development. The tracking must ensure that relevant large vehicles can undertake all manoeuvres at junctions and around changes in the horizontal alignment without over running adjacent footways/landscaped areas/ gardens etc. The tracking should take into account areas where on-street parking may regularly occur and also demonstrate that there are adequate areas where opposing traffic may pass the oncoming large vehicle.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

36. Notwithstanding the plans hereby approved and prior to the start of development, details of facilities for remote collection of bins (i.e. at entrance to private courtyards, shared accesses), to include details of servicing arrangements and pick up facilities, shall be submitted to and agreed in writing by the Planning Authority.

Reason: To ensure that the development does not compromise road safety for those operators collecting the bins and other road users on the road network.

37. Prior to the commencement of development, details of construction traffic movements (including vehicles involved in the removal of stockpiled material) and likely routes to be used for each phase of development, as agreed under condition 2, shall be submitted to and agreed in writing with the Planning Authority.

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

38. Prior to the opening of any neighbourhood centre unit hereby approved, details of all external lighting and other illumination proposed at the neighbourhood centre (other than road lighting) shall be submitted to and agreed in writing by the Planning Authority. These details shall include the height of all lights, the intensity of the lights (specified in Lux levels), spread of light, including approximate light spillage levels (in metres) and any measures proposed to mitigate impact of the lighting or disturbance through glare (such as shrouding) and the times when such lights will be illuminated.

Reason: To protect neighbour occupiers from disturbance.

39. Prior to the start of development, Road Safety Audits (Stage 1 and/or Stage 1/2) shall be submitted to and approved in writing by the Planning Authority, in consultation with the Roads Service. The Road Safety Audits shall be undertaken on the residential road layout and the proposed changes to Balgraystone Road and Springfield Road (proposed junctions and pedestrian facilities).

Reason: To ensure that the development complies with Roads Service standards, in the interests of road safety.

ADDITIONAL NOTES:

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.

The following British Standards should be referred to: a) BS: 3998:2010 Tree work – Recommendations b) BS: 5837 (2012) Trees in relation to demolition, design and construction

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.

Details of all proposed structures that may be adopted by the Roads Service will require to be submitted to and agreed in writing by the Roads Authority.

You are required to display a notice for the duration of the development works and the relevant notice is attached for you to complete. The notice must be displayed in a manner that complies with the following requirements:-

- Display in a prominent place at or in the vicinity of the development site.
- Be readily visible to the public road.
- Be printed on durable material.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

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 Alan Pepler on 0141 577 3001.

Ref. No.: 2023/0656/TP

DATE: 27th March 2024

DIRECTOR OF ENVIRONMENT

EAST RENFREWSHIRE COUNCILPLANNING APPLICATIONS COMMITTEE3rd April 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