

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)**  
**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997**

Index of applications under the above acts to be considered by Planning Applications Committee on  
6th August 2025

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**Reference No:** 2024/0594/TP

**Ward:** 2

**Applicant:**

Mr Tahir Munj  
1 Glen Orchy Grove  
Glasgow  
Scotland  
G53 7WW

**Agent:**

David Bell  
1 John's Place  
Edinburgh  
Scotland  
EH4 2WL

**Site:** 6 Shuna Place, Newton Mearns, East Renfrewshire, G77 6TN

**Description:** Change of use from dwellinghouse to short term holiday lets and conversion of existing attached garage to habitable accommodation.

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

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**Reference No:** 2025/0283/TP

**Ward:** 1

**Applicant:**

Mr Andy Geddes  
205 St. Vincent Street  
Glasgow  
Scotland  
G2 5QD

**Agent:**

**Site:** Lyoncross, Aurs Road, Barrhead, East Renfrewshire, G78 2SQ

**Description:** Erection of residential development of 39 detached dwellings (to include retention of existing listed farmhouse) with associated access roads, landscaping, open space and other required infrastructure (amendment to condition 6 of planning permission 2022/0719/TP that requires the trees marked for retention on the approved tree constraints plan to be protected during the construction phase, to allow 16 no. trees marked for retention to be removed. 10 no. trees marked for removal to be retained). (Section 42 application).

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

# REPORT OF HANDLING

Reference: 2024/0594/TP

Date Registered: 14th February 2025

Application Type: Full Planning Permission

This application is a Local Development

Ward: 2 -Newton Mearns North And Neilston

Co-ordinates: 252710/:656574

Applicant/Agent:

Applicant:

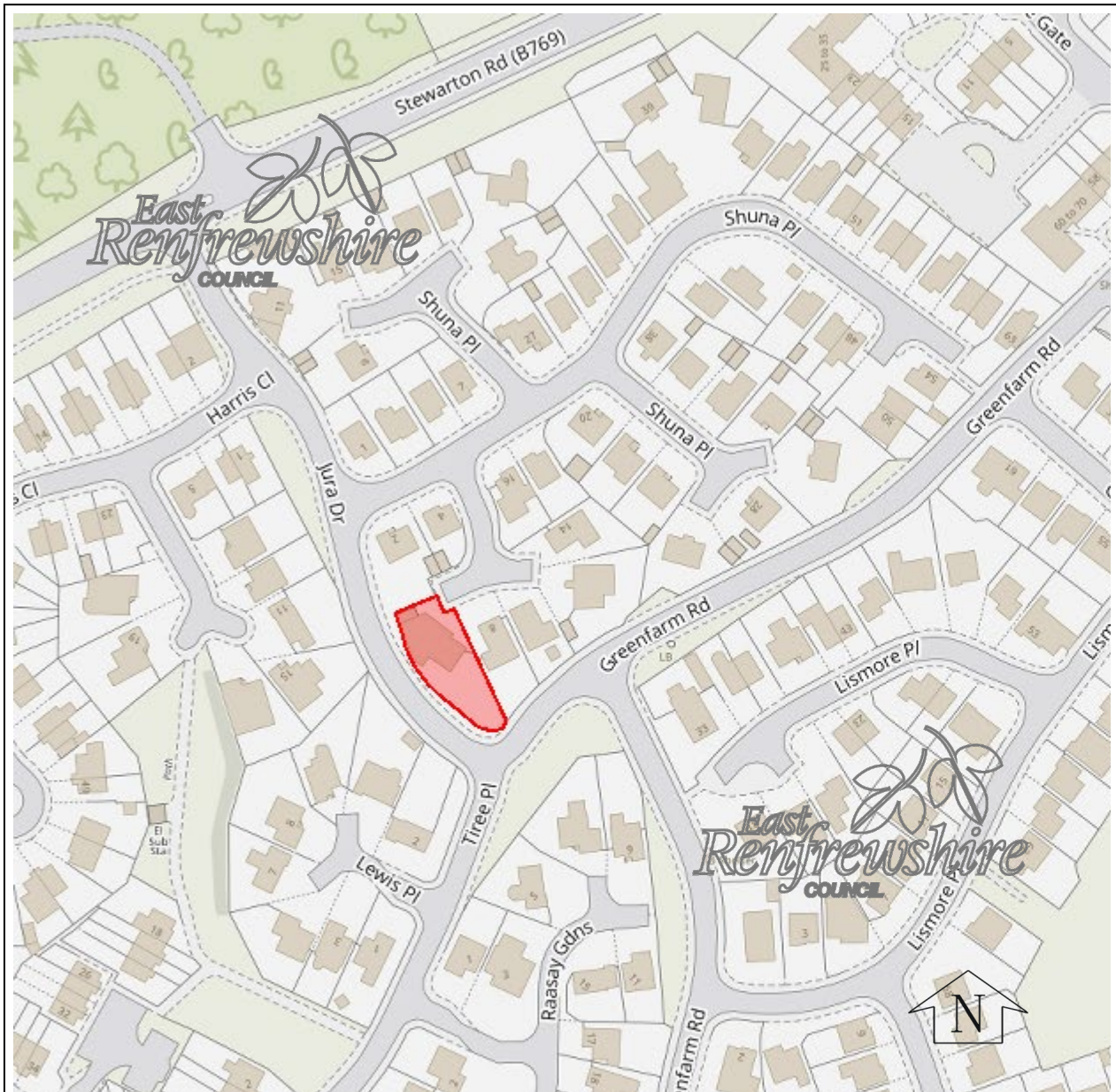
Mr Tahir Munj  
1 Glen Orchy Grove  
Glasgow  
Scotland  
G53 7WW

Agent:

David Bell  
1 John's Place  
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Scotland  
EH4 2WL

Proposal: Change of use from dwellinghouse to short term holiday lets and conversion of existing attached garage to habitable accommodation.

Location: 6 Shuna Place  
Newton Mearns  
East Renfrewshire  
G77 6TN



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**CONSULTATIONS/COMMENTS:**

East Renfrewshire Council Roads Service

Recommends refusal as there is a lack of in-curtilage parking associated with the business which could lead to dangerous or obstructive parking on the adjacent public roads.

**PUBLICITY:**

07.03.2025

Evening Times

Expiry date 21.03.2025

**SITE NOTICES:** None.**SITE HISTORY:**

2016/0849/TP

Erection of single storey  
front and side extensions

Granted

30.01.2017

**REPRESENTATIONS:** 19 objections have been received and the grounds of objection may be summarised as follows:

- Potential issues of noise, late night activity, use of the property as a "party venue", impact on wellbeing of neighbouring residents, antisocial behaviour
- Waste pollution
- Lack of housing in the area
- Sufficient local hotel accommodation
- Contact details/telephone number has not been given to neighbours contrary to what the supporting statement states
- According to the application it is currently being used as a short term holiday let, which is not the case rather it is currently rented to a family
- Increase in numbers at the property
- Newton Mearns is not a holiday destination
- Will increase the need for rubbish and recycling disposal because of the short turnover
- Questions who will be responsible for leaving bins out for emptying
- Bins used more frequently because of increased usage and if not emptied will cause a health hazard
- Increase in traffic/roads safety issues/congestion/impact on refuse lorries which reverse into cul-de-sac
- Insufficient parking/impact on emergency vehicles
- Not consulted by current owners
- Impact on privacy
- Out of character with the residential area/inappropriate development
- Increase in noise during construction
- Assumed contrary to title deeds
- Set a precedent
- No supervision of the property first hand

**DEVELOPMENT PLAN & GOVERNMENT GUIDANCE:**

National Planning Policy Framework 4 –

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

Local Development Plan2 –

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

## SUPPORTING REPORTS:

Supporting Statement – Refers to the rationale for the use of the property and outlines how the short term lets operate. Comments made in relation to noise, parking and rubbish.

## ASSESSMENT:

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

### Site description

The application site is a single storey detached house located in a cul-de-sac in an established residential area. The house has garage at the side which is attached to a single storey side extension. The front elevation of the garage is set back from the front elevation of the house. There is hardstanding along the front elevation of the house and in front of the garage. The house is situated at the end of the cul-de-sac and is accessed via a turning head.

### Proposal

It is considered necessary in the first instance to explain what short term lets are and why planning permission is required.

The definition of short-term let is provided in National Planning Framework 4 and defines a short term let as:

*“The use of a dwellinghouse (a residential house or flat) for rental by persons other than the owner for short periods and for financial or other remuneration. Typically includes properties advertised as being available for holiday let, although can apply to other situations.”*

Short term lets may take various forms and be used for different purposes. This includes properties advertised as being available for holiday let, although can apply to other situations, such as short-term accommodation for workers. Types of Short term lets include the following:

Secondary letting – the letting of property where the owner does not normally live, for example a second home that is let to guests.

Home letting – using all or part of a home for short-term lets, whilst the owner is absent, for example of this could be whilst the owner is on holiday.

Home sharing – using all or part of a home for short-term lets, whilst the owner is there.

Home letting and home sharing – operating short term lets from a home while the owner is living there and for periods when the owner is absent.

Determining whether or not short-term letting of a property is a material change of use is a matter of fact and degree based on the circumstances of the case. This has been established by case law. Consideration of materiality can cover a variety of factors including: the character of the property and the relationship to its neighbours; the nature of the surrounding area; the frequency of arrivals and departures; the likely frequency of lettings; the number of people staying and the potential for noise or otherwise unsocial activities.

There is advice in Scottish Government Circular 1/2023: Short Term Lets and Planning which sets out that a change of use to a short-term let constitutes development for which planning permission is required. Circular 1/2023 states that a material change of use of a dwellinghouse, whether to use for the purposes of short-term letting or other uses, is development under Section 26 of the Town and Country Planning (Scotland) Act 1997 (as amended) and requires planning permission. The Circular goes on to indicate there are limited instances where the change of use is so minor that the dwelling remains a dwelling, and therefore no application for planning permission is required.

Permission is sought to change the use of the house to short term holiday lets. It should be noted that when the planning application was submitted it was indicated on the application form to be a retrospective application for the use of the house for short term lets. However this was an error by the applicant's agent. The applicant's agent has confirmed the property has been privately rented for more than 6 years. This has generally been to families and the property has not been used for short term lets. This error in the submission of the application is noted and the application can be determined on the basis of the proposed use.

The application also includes converting the garage to a bedroom associated with the short term lets. The submitted plans indicate internal alterations are to be carried out with an internal door installed linking this room to the remainder of the property. The submitted plans indicate the existing house has 6 bedrooms and will remain as 6 bedrooms after the garage is converted. In addition a window and facing bricks are to be installed in place of the garage door.

With regard to how the lets are to operate, it has been indicated the property is to be made available for short term lets over the majority of the calendar year although the exact details are not available at the moment. It has also been indicated the length of any single let may vary but would generally be a weekend or full week. Submitted information also indicates the minimum stay is to be for 2 nights and the average booking is to be 3 to 4 days. The property may be available as a single let or two separate lets. It has also been indicated that visitors are to be offered a personal check in service although there is to be a single key box affixed at the main front entrance door and visitors can opt to use this on arrival and departure.

Planning permission is required for the use of the house at 6 Shuna Place as a short term let because accommodating guests, which could be up to ten at any one time, is considered to be a material change of use. It is a more intense use than would be expected if the residence was used as a dwellinghouse. Guests within each let may also not arrive from a single household, but may arrive from multiple locations. Even two changes of guests arising in a week will represent a high turnover of movements into and out of the property. This pattern of movement may be higher still there are two lets operating at the same time. All guests who can be accommodated may arrive at different times by separate journeys. Short term letting of the property for one or two groups will therefore generate a materially different pattern of use from that associated with its occupation as a dwellinghouse.

It should be noted that the licensing of a Short Term Let is a separate matter from requiring planning permission and the purpose of licensing is different from that of planning control. The purpose of a Short Term Lets Licence is to ensure basic safety standards are in place and conditions can be applied to the Licence.

### **Development Plan Policies**

The application is required 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). The following policies of NPG4 and LDP2 are considered to be the most relevant to determining this application.

#### **National Planning Framework 4**

Policy 1 indicates when considering all development proposals, significant weight will be given to the global climate and nature crises.

Policy 2 supports development proposals to retrofit measures to existing developments which reduce emissions or support adaptation to climate change.

Policy 14 expects proposals to be designed to improve the quality of an area whether in urban or rural locations and regardless of scale and will be supported where they are consistent with the six qualities of successful places.

Policy 30 relates to tourism and sub-section e) refers specifically to short term lets. This policy supports the reuse of existing buildings for short-term holiday letting where they do not result in an

unacceptable impact on the amenity and character of an area or result in the loss of residential accommodation, unless such a loss is outweighed by demonstrable local economic benefits.

### Local Development Plan 2

Policy D1 relates to all development and states that development should not result in a significant loss of character or amenity to the surrounding area.

Policy D2 indicates development will be supported within the general urban areas and will be required to demonstrate that the proposed development is appropriate in terms of its location and scale and will not result in a significant loss of character or amenity to the surrounding area. Proposals must also comply with appropriate policies of the Proposed Plan.

Policy D10 states that proposals will be required to demonstrate that they will not have a significant adverse impact on road safety; the convenience, safety and attractiveness of walking and cycling in the area; public transport operations; the capacity of the surrounding road network; and residential amenity as a result of increased motorised traffic.

Policy SG9 indicates the Council supports the protection and enhancement of a network of tourist, arts and cultural attractions/facilities, infrastructure and accommodation for residents, visitors and businesses, across the Council area. Proposals for the creation of new tourism facilities and accommodation, or extensions or enhancements to existing facilities, will be assessed against a number of criteria including: demonstrating the net economic benefits and contribution towards the visitor economy; demonstrating that they are compatible with adjoining and neighbouring uses and should have no adverse impacts upon the amenity of the surrounding area; complement existing/proposed tourist facilities in the area; and be accessible by a range of sustainable transport options and connect to active travel routes and the wider green network.

### **Assessment against Development Plan Policies**

Using the dwellinghouse for accommodation in the form of short term lets, including the proposed conversion of the garage, is considered in general terms to accord with the quality of being “Adaptable” under Policy 14 of NPF4 and therefore consistent with the terms of Policy 1 as well as Policy 2 of NPF4.

The nature of short term lets is that there is frequent turnover of users and the impact of the proposed change of use on the surrounding area has also to be considered. The application site is located in a residential cul-de-sac and the surrounding area is residential in character.

The introduction of this use to a mainstream residential street and neighbourhood, allied with the transitory nature of the business and the disturbance that will arise from a regular turnover of guests, is considered to adversely impact on the character and amenity of the area, particularly for neighbours in immediate proximity to the application property. The proposed change of use is therefore considered to be contrary to Policy 14 of NPF4 as well as Policies D1 and D2 of LDP2.

Policy 30 e) of NPF4 also states that proposals to reuse existing buildings for short term holiday letting will not be supported where any loss of residential accommodation would not be outweighed by demonstrable local economic benefits.

There may be some potential for economic benefits from the development although no specific information to demonstrate this has been submitted with the application. Use of the property for visitor or holiday lets opens the possibility of spending on goods and services locally bearing in mind the Greenlaw Neighbourhood Centre is nearby and within reasonable walking distance. However, this has not been quantified. It is difficult to estimate what level of spend will arise from the proposal nor the proportion of a tourist's/visitor's net spend would be confined in the local area. The proposal would result in the loss of residential accommodation but demonstrable economic benefits have not been quantified. It is unlikely the overall economic impact will be significant.



The external alterations to the attached garage to install windows in place of the garage door have a limited visual impact on the property and the surrounding area. These alterations in themselves are considered to be acceptable under the terms of Policy 14 of NPF4 as well as Policies D1 and D2 of LDP2. It should also be noted if the property is occupied as a dwellinghouse these alterations could be carried out under permitted development rights. However the application as applied for has to be considered as a whole.

### **Parking and transport**

In the consultation response the Council's Roads Service has advised the original dwellinghouse contained three bedrooms meaning the two curtilage parking spaces were sufficient. The dwellinghouse was subsequently extended/alterd to contain six bedrooms and for a house containing five or more bedrooms, the parking requirement is three in-curtilage spaces.

The Roads Service has considered the parking requirements for the proposed short term lettings use against the National Roads Development Guidelines (NRDG) and to the closest equivalent types of use classes listed. Using the NRDG, Roads Service advises if the building is considered as a dwellinghouse three in-curtilage spaces are required. If considered as a B&B, five spaces would be required.

Roads Service has advised that between three and five in-curtilage spaces are therefore required for the short term lets. Only two spaces are available meaning there would be a shortfall in parking for the short term lettings use. Roads Service advise this could lead to parking on the adjacent public road which could obstruct the turning head. The turning head is required to allow a large vehicle such as a refuse collection vehicle to enter and exit the cul-de-sac in a forward gear. Any obstruction of the turning head would pose a threat to road safety and Roads Service advice is that this is therefore not acceptable.

The number of guests that could potentially be accommodated at any one time is indicated in the supporting information as ten, which could either be in a single let or two lets occurring at any one time. It is acknowledged that the property may not always be at full capacity. However it is likely to result in more cars arriving at the property than are capable of being parked in-curtilage. Although Patterton Station is within walking distance, the use of this mode of public transport is considered to be at the limits of a comfortable walk particularly if guests have luggage with them. Bus stops are located on Stewarton Road and Greenfarm Road however it is considered unlikely that many guests would use this mode of transport to arrive at the property. It is considered likely that guests would predominantly arrive at the property in their own cars.

The limited parking at the property available for the proposed use is likely to result in on-street parking within the cul-de-sac by guests. The proposal is therefore considered contrary to Policy D10 of LDP2.

### **Representations**

With regard to the grounds of objections which have been received and not already considered above the following comments are made.

If there is noise disturbance as a result of the use of the property this is a matter to be reported to the Council's Environmental Health Service to investigate under their remit. Antisocial behaviour is a matter for Police Scotland to investigate. If there is a Short Term Lets Licence these matters can also be reported to the Council's Short Term Lets Licensing team as this could affect the Licence that has been granted.

Although there are two hotels nearby at Greenlaw and Parklands, visitors may not wish to use this type of accommodation. The use of a house for short term lets offers an alternative form of visitor accommodation.

The owner of the property is not required to consult the neighbouring properties in relation to the proposed use.



It is not considered that the use of the property will result in a significant impact on privacy.

It is the responsibility of the short term lets operator to ensure bins are collected and for information to be provided to visitors to ensure that rubbish is disposed of correctly.

Short term lets can be used by tourists as well as workers who may be employed temporarily in the local area. If workers using the property on short term lets are parking their vehicles in a manner which causes an obstruction on the public road, this is a matter to be reported to Police Scotland.

The construction/conversion work associated with the proposed use is limited in nature and is not considered to be for long durations as to adversely affect the amenity of neighbouring properties. If there is excessive noise during construction this is a matter to report to the Council's Environmental Health Service to investigate under their remit.

The contents of title deeds are not a material consideration in determining a planning application.

Should planning permission be granted it is not considered that this will set a precedent. Should other similar planning applications be submitted they will be assessed against the relevant policies of the Development Plan as well as any material planning considerations at that time.

The nature of short term lets is that the operator does not always reside at a property. Guests would be expected to behave in a reasonable manner as to not affect the amenity of neighbouring properties nor to cause anti-social behaviour. Providing contact details/telephone number of the operator to neighbouring properties is a means of reporting any issues that need to be addressed. However there is no guarantee that the operator will be immediately on hand to address any issues that arise.

### **Overall conclusion**

When considering all the matters relevant to the proposed change of use it is considered that the proposed short term lettings use is not acceptable as it will introduce a use that is not considered compatible with the neighbouring residential properties. The intensification of the use of the property compared to it to being used as a dwellinghouse is considered to adversely affect the amenity of the neighbouring residential properties. The proposed use is considered contrary to the relevant policies of the Development Plan and there are no material considerations which outweigh these policies in order to recommend approval.

**PLANNING OBLIGATIONS:** None.

**RECOMMENDATION:** Refuse.

### **REASONS FOR REFUSAL:**

1. The use of the dwellinghouse for short term lets will introduce a use that is not considered compatible with the neighbouring residential properties as there will be an intensification of the use of the property associated with the short term lets compared to pattern of use as a dwellinghouse. This intensification of use is considered to adversely affect the amenity of the neighbouring residential properties. The proposed use is considered contrary to Policies 14 and 30(e)(i) of National Planning Framework 4 as well as Policies D1(Point 1) and D2 of the adopted East Renfrewshire Local Development Plan 2. There are no material planning considerations to allow the development to be approved against these policies.

2. There is insufficient in-curtilage parking required for the proposed short term lets which will result in additional and/or obstructive on-street parking in this cul-de-sac which will have an adverse impact on roads safety. As a consequence the proposed use is considered contrary to Policy D10 of the adopted East Renfrewshire Local Development Plan 2. There are no material planning considerations to allow the development to be approved against these policies.

**ADDITIONAL NOTES:** None.

**ADDED VALUE:** None.

**BACKGROUND PAPERS:**

Further information on background papers can be obtained from Mr Sean McDaid on 0141 577 3001.

Ref. No.: 2024/0594/TP  
(SEMC)

DATE: 30th July 2025

**DIRECTOR OF ENVIRONMENT**

# <sup>13</sup> REPORT OF HANDLING

Reference: 2025/0283/TP

Date Registered: 15th May 2025

Application Type: Full Planning Permission

This application is a Local Development

Ward: 1 -Barrhead, Liboside And Uplawmoor

Co-ordinates: 251594/:657948

Applicant/Agent:

Applicant:  
Mr Andy Geddes  
205 St. Vincent Street  
Glasgow  
Scotland  
G2 5QD

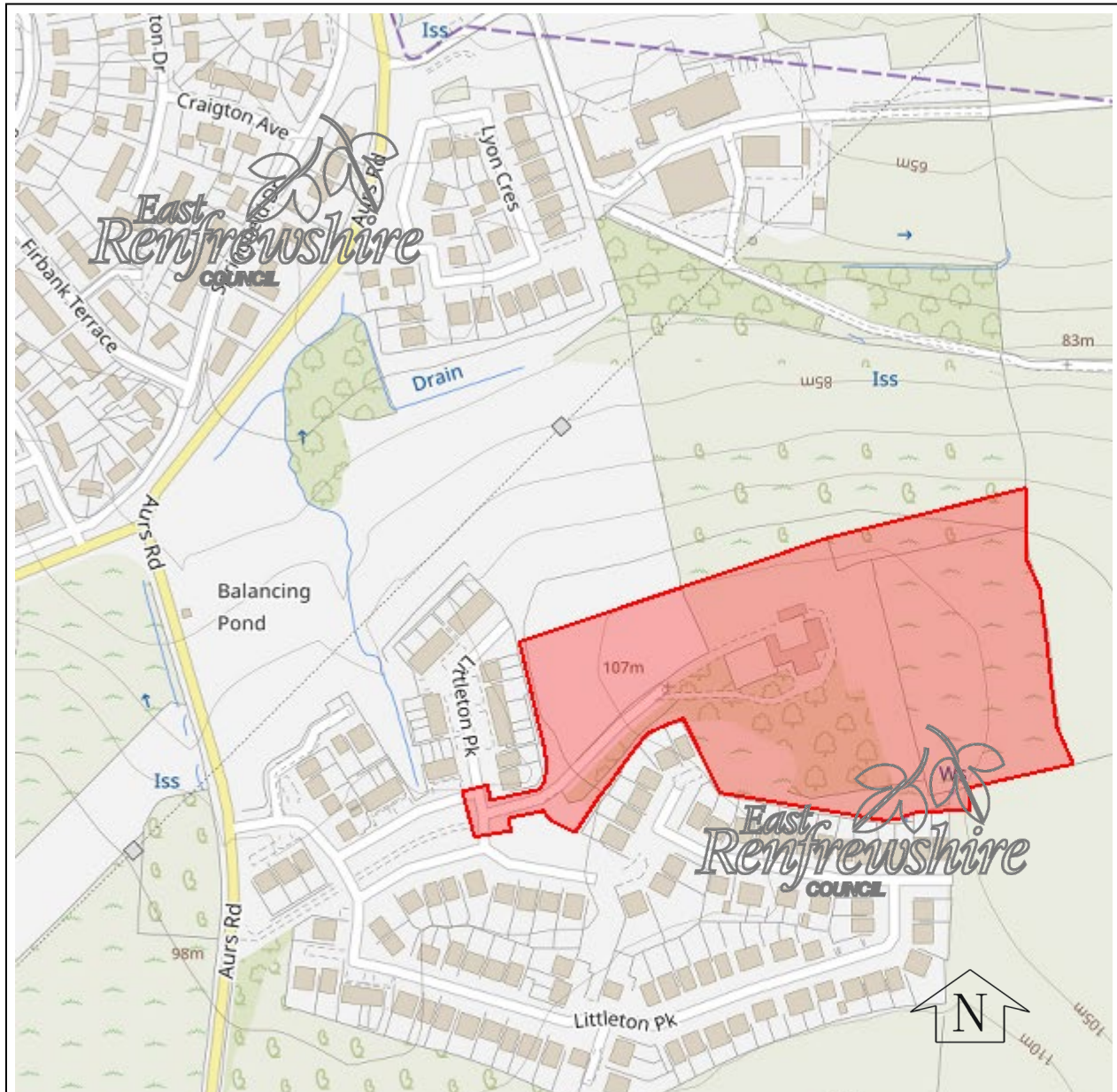
Agent:

Proposal:

Erection of residential development of 39 detached dwellings (to include retention of existing listed farmhouse) with associated access roads, landscaping, open space and other required infrastructure (amendment to condition 6 of planning permission 2022/0719/TP that requires the trees marked for retention on the approved tree constraints plan to be protected during the construction phase, to allow 16 no. trees marked for retention to be removed. 10 no. trees marked for removal to be retained). (Section 42 application).

Location:

Lyoncross  
Aurs Road  
Barrhead  
East Renfrewshire  
G78 2SQ

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**CONSULTATIONS/COMMENTS:**

Architectural Heritage Society

Comments on this being an amendment of planning permission 2022/0719/TP, which also indicated retention, and stated that the farmhouse would be refurbished to a high standard at a later date and that this would be subject to a separate application in due course.

Indicates the present application makes no reference to the farmhouse's future, and lacks any detail in this respect. Seeks assurance that the intention, as set out in the previous application, is still on the table. Indicates the existing building's features should be recorded, and the development should leave it capable of re-use. Indicates the adopted Local Plan Policy D15 is that the layout, design, materials, scale, siting and use of any development affecting a listed building shall be appropriate to the character and appearance of the listed building and its setting. There is a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.

**PUBLICITY:**

06.06.2025

Barrhead News

Expiry date 27.06.2025

**SITE NOTICES:**

Setting of Listed Building

Date posted 06.06.2025

Expiry date 27.06.2025

**SITE HISTORY:**

2022/0719/TP

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

Approved subject to conditions

03.12.2024

**REPRESENTATIONS:** Forty-one objections have been received and can be summarised as follows:

- The previous permission 2022/0719/TP should not have been granted and should be overturned;

- The wider residential development at Lyoncross (2022/0719/TP) is contrary to the Development Plan and the Barrhead South Masterplan;
- Impact on biodiversity and protected species;
- Loss of trees;
- Updated ecology report and tree survey required;
- Air quality;
- Storm water management;
- Removal of trees not adequately justified;
- Construction traffic through Littleton Park and associated safety impact;
- Houses too close together;
- Cumulative impact of the proposed residential development with the Aurs Road works;
- Wider consultation should be carried out;
- Impact on Dams to Darnley Country Park;
- Updated traffic survey required;
- Impact on listed farmhouse;
- Replanting proposals are inadequate;
- Extension to site plan raises safety concerns;
- Impact of housing on local services;
- Loss of privacy;
- Dust impact.

## **DEVELOPMENT PLAN & GOVERNMENT GUIDANCE:**

National Planning Policy Framework 4 –

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

Local Development Plan2 –

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

## **SUPPORTING REPORTS:**

Arboricultural Impact Assessment (Revision B, May 2025) – Provides an overview of tree cover within the site and describes the removal of existing trees as well as the replanting strategy. It concludes that the landscape and replanting strategy compensates for the removal of the trees to be felled.

Ecological Survey (Addendum, June 2025) – An Ecological Assessment was carried out in 2021 (Rudd, N. [September 2021]). Since then, minor revisions have led to changes to the trees to be removed and retained. The Addendum lists the trees now scheduled for felling and retention and considers any changes in the overall assessment of ecological value of the new proposed scheme. Makes recommendations with regard to nesting birds and bats.

## **ASSESSMENT:**

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

## **Site description**

The application site comprises an area of land around Lyoncross House to the south-east of Barrhead. The site is irregular in shape and includes open fields to the east and west of Lyoncross House and wooded areas to the north and south as well as part of the original tree-lined avenue running from Aurs Road to Lyoncross House. Lyoncross House itself is a former farmhouse built in the traditional U-shaped plan with wings and outbuildings to the north side. It is a category C listed building dating from 1780, with additions and modifications around 1900. New residential development, approved under planning permission reference 2018/0408/TP is nearing completion to the south and west of the site. The site is elevated and visually prominent,

particularly when viewed from the north-west, along Aurs Road and from the Dams to Darnley Country Park to the east.

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

The site is not covered by a Tree Preservation Order.

### **Previous planning permission**

It should be noted the Planning Applications Committee at the meeting on 14th March 2024 agreed to approve planning permission for the erection of 39 dwellings on the site and for the formation of associated access roads, landscaping and open space (2022/0719/TP), subject to conditions and the completion of a Section 75 agreement in respect of developer contributions to social housing. Planning permission 2022/0719/TP was granted subject to conditions on 3rd December 2024 following the conclusion of the Section 75 agreement.

Planning permission 2022/0719/TP remains extant and the developer is currently working to agree all pre-commencement conditions with a view to starting work on the consented development.

Condition 6 of planning permission 2022/0719/TP states:

*"Development shall not commence until the trees marked for retention on the approved tree constraints plan reference P02 B have been protected by suitable fencing. Fencing shall be erected on at least the fullest extent of the canopy on broadleaf trees and half the height of conifer trees as set out in BS3998/2010 and BS5837/2012. Development shall not commence until details of the location and type of fencing have been submitted to and approved in writing by the planning authority. Thereafter the approved tree protection measures shall be fully implemented on site and remain in position throughout the construction of the development."*

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

### **Section 42 application**

This current application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended), seeks to amend Condition 6 such that it refers to an updated tree constraints plan (reference P02 revC). If Condition 6 was to be amended in this manner, it would have the effect of permitting the felling of 16 additional trees, mainly in the vicinity of the access road, whilst securing the retention of 10 trees that were previously agreed to be felled at the top of the access road, to the south-east of Lyoncross House.

When an application made under Section 42 is granted, it has the effect of creating a new and separate permission for the development with different, amended, or no conditions attached, as the case may be. It should be noted that the previous permission still exists and is not varied by the decision on the Section 42 application.

The advice from the Scottish Government (contained in Annex H of Circular 3/2022 - Development Management Procedures) is that in determining Section 42 applications, Planning Authorities may only consider the issue of the conditions to be attached to any resulting permission. However, in some cases this does not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has lapsed or is incapable of being implemented. The advice goes on to indicate that where it is considered that permission should be granted subject to different conditions, a new permission should be granted and all un-amended conditions attached from the previous permission where it is intended that they should still apply. If it is considered that planning permission should be granted subject to the same conditions as the previous permission, then the Section 42 application should be



refused. The making, granting or refusing of a Section 42 application does not alter or affect the previous permission or its conditions.

### **Justification from the applicant to amend condition 6**

The applicant has advised that the drainage plan approved by Scottish Water requires the provision of underground attenuation tanks. For technical and operational reasons, those tanks can only be provided in the west of the site at the lower end of the access road. This would necessitate the removal of the 16 trees that are to be felled if the Section 42 application is granted.

### **Detailed consideration**

Section 25 of The Town and Country Planning (Scotland) Act 1997 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. A Section 42 application is still an application for planning permission and is required to be assessed in this regard.

Planning permission 2022/0719/TP has established the residential development of this site. As this is a recent planning permission, it is not considered necessary to re-examine the principle of the residential development at this site.

The matter to be considered in this Section 42 application is whether the removal of the 16 trees that were previously to be retained, along with the retention of the 10 trees that were previously to be felled, is acceptable.

### **Arboricultural assessment and impact on character**

In terms of the wider development, the applicant has indicated in their updated Arboricultural Impact Assessment (May 2025) that this current proposal would result in the removal of one category A tree, 15 category B trees and 19 category C trees, in addition to the 39 category U trees to be removed as a result of their health and condition. It should also be noted that the applicant's landscape strategy maximises the extent of replacement tree planting within the site, resulting in a significant net increase in the number of trees being proposed:

254 feathered, standard and heavy standard trees;  
5685 native woodland plants;  
2130 native hedgerow plants;  
741 beech hedgerow plants;  
793 native hedge plants; and  
486 amenity shrubs.

Whilst the number of new trees is the same as that proposed with the original permission 2022/0719/TP it is noted that there is a slight reduction in the number of woodland and hedgerow plants and shrubs relative to the original permission.

It is accepted that the extent of the tree loss is not insignificant. It is nevertheless considered that the applicant's replanting proposals as set out in the updated Arboricultural Impact Assessment (May 2025) will in part mitigate this loss.

It is noted that the current proposal under Section 42 will result in a net loss of 6 trees. In the event the Section 42 application is approved, a condition can be attached to ensure the replanting of an additional 6 trees with the details of the replanting to be submitted for further approval in writing.

Subject to such a condition, it is considered that the impact of the current proposal under Section 42 is acceptable and that the character and visual amenity of the area will not be significantly adversely affected.

## Biodiversity

The applicant's updated Ecology Assessment (Ecology Addendum June 2025) states that the trees were surveyed by an ecologist on 8th June 2025, including the 16 now proposed to be felled and the 10 now to be retained. The scope of the survey included an assessment of the trees in relation to potential or actual presence of nesting birds and bats.

It indicates that of the 16 now proposed to be felled: 5 are Sycamore and 4 are Norway Maple (neither of those species are native); 5 are Beech; and 2 are Horse Chestnut (non-native but considered naturalised). Of the ten trees being retained, 1 is a Scots Pine; 5 are Beech; and four are Sycamore.

The Ecology Addendum states that, ecologically, there is very little difference in terms of this proposed change, with only one tree showing potential for bats. The Addendum states that it may be possible to compensate for the net loss of 6 trees elsewhere in the site.

The Ecology Addendum concludes with two recommendations:

1. That any tree or area of scrub noted as having nesting birds must be avoided until all nesting has finished, noting that all nests are protected by the Wildlife and Countryside Act 1981 (as amended) and that a bird cannot be obstructed from using its nest; and
2. That pre-construction checks will be required for any tree marked with bat potential if it is identified to be felled or if it is located immediately next to a tree to be felled.

The pre-construction checks can be secured by a planning condition should this application be approved.

Subject to such a condition, it is considered that the proposal would not adversely impact on the biodiversity of the area.

## Objections

With regard to the objections that have been received the following matters relate to the principle of the residential development of the site, the existing planning permission and the design of the development:

The existing planning permission should not have been approved and should be overturned;  
 Construction traffic through Littleton Park and safety impacts;  
 Houses too close together;  
 Cumulative impact of the development with the works to Aurs Road;  
 Wider consultation should be carried out on the development;  
 Updated traffic survey required;  
 Impact of the housing development on local services;  
 Loss of privacy;  
 Dust impact.

These grounds of objection are not considered relevant to this Section 42 application.

With regard to the other grounds of objection the following comments are made.

An updated Ecology Assessment and Arboricultural Impact Assessment have been submitted and are considered adequate for the purposes of this application. It is the responsibility of the developer to ensure the adequate drainage of the site, through the implementation of the drainage strategy. The limited changes to the tree retention would not be considered to significantly affect this or the air quality of the area. Neighbour notification was carried out on 27th May 2025 in accordance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulation 2013 and again on 13th June 2025 when a drafting error on the applicant's location plan was noted. The corrected location plan ensured the site boundary of the Section 42 application corresponds with the original planning permission and does not mean the site

boundary has since been extended. The changes to the tree retention are not considered to adversely affect the setting of the listed building or the amenity of the Country Park given their nature and limited scale.

### **Consultation response**

The comments of the Architectural Heritage Society of Scotland are noted. Only the changes to the tree retention are considered in this Section 42 application and as noted above, this is not considered to impact on the setting of the listed building.

### **Overall conclusion**

The proposed amendment to Condition 6 of planning permission 2022/0719/TP that allows changes to the approved tree retention are considered to be acceptable when assessed against the terms of the Development Plan. There are no material considerations that indicate the Section 42 application should not be approved. It is therefore recommended that the application is approved subject to the conditions set out below.

As a new planning decision is being issued, relevant conditions are required in accordance with the advice in annexe H of Scottish Government Circular 3/2022. As the development has not been commenced and a new decision will effectively be issued, it is considered necessary to include all the conditions that were previously included on planning permission 2022/0719/TP. The two additional conditions referred to in the assessment above will also be included (ie Conditions 20 and 21).

**PLANNING OBLIGATIONS:** None.

**RECOMMENDATION:** Approve Subject to Conditions.

### **CONDITIONS:**

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

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

2. Development shall not commence until details of the phasing of the development 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.

Reason: In order to ensure a properly programmed development.

3. Development shall not commence until details 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 the development is acceptable in appearance.

4. Development shall not commence until details and location of all walls (including retaining walls) 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 the development is acceptable in appearance.

5. Development shall not commence until detailed levels, diagrams and sections, showing the existing and proposed levels throughout the site and finished floor levels in relation to a fixed

datum point have been submitted to and approved in writing by the planning authority. Thereafter the development shall be constructed in accordance with the approved levels, diagrams and sections.

Reason: To ensure that the levels are acceptable at this location.

6. Development shall not commence until the trees marked for retention on the approved tree constraints plan reference P02 C have been protected by suitable fencing. Fencing shall be erected on at least the fullest extent of the canopy on broadleaf trees and half the height of conifer trees as set out in BS3998/2010 and BS5837/2012. Development shall not commence until details of the location and type of fencing have been submitted to and approved in writing by the planning authority. Thereafter the approved tree protection measures shall be fully implemented on site and remain in position throughout the construction of the development.

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

7. The development shall be landscaped in accordance with the approved scheme as set out in the approved landscaping drawings 307-36-03b; 307-36-11b; 307-36-12b; 307-36-14b; and 307-36-15a as follows:-

- a) Completion of the scheme in compliance with the phasing programme agreed to comply with condition 2 above.
- b) Maintenance of the landscaped areas for a period of five years. Any trees, shrubs or areas of grass which die, are removed, damaged or diseased within 5 years of the completion of the landscaping shall be replaced in the next planting season with others of a similar size and species.

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

8. Prior to the commencement of any work on site, details of the make-up and finish of the footpaths throughout the site, along with details describing the means and mechanism by which they will link to the footpaths proposed within the Dams to Darnley Country Park, shall be submitted and approved in writing by the Planning Authority. Thereafter, the footpaths shall be completed in their entirety in compliance with the phasing programme agreed to comply with Condition 2 above and where appropriate, shall be laid such that they abut the site's north and south boundaries as shown on the proposed site plan. The footpaths shall be maintained within the site, free from obstruction at all times.

Reason: To ensure the satisfactory completion of footpaths through the site to link with the Dams to Darnley Country Park in the interest of the proper planning of the area.

9. Development shall not commence until a scheme to deal with contamination on the site (remediation plan) has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of:

- i) the nature, extent and type(s) of contamination on the site;
- ii) measures to treat/remove contamination to ensure the site is fit for the use proposed;
- iii) measures to deal with contamination during construction works.

Before any part of the development is occupied/used the approved measures to decontaminate/remediate the site shall be fully implemented unless a phased completion and occupation is agreed as part of the approved scheme.

On completion of any remediation works, the developer shall submit a completion report to the 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.

Reason: In the interests of public health and to protect users of the development and the wider environment from the effects of contamination.

10. Any previously unsuspected contamination which becomes evident during the development of the site shall be brought to the attention of the Council 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.

Reason: In the interests of public health and to protect users of the development and the wider environment from the effects of contamination.

11. Prior to the commencement of any work on site, a noise impact assessment to determine the suitability of the site for residential development in accordance with the principles of Planning Advice Note 1/2011: Planning and Noise, shall be submitted and approved in writing by the Planning Authority. The noise impact assessment shall set out any mitigation measures required to ensure the future occupants of the site are not subject to excessive noise from the adjacent railway. Any and all mitigation measures, as set out in the assessment, shall be implemented in full prior to the occupation of any affected dwelling.

Reason: To ensure the future occupants of the dwellings are not subject to excessive noise levels from the adjacent railway.

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

Reason: To prevent noise nuisance to the surrounding area.

13. Prior to the commencement of any work on site an updated roads layout/site plan incorporating:

(i) the amendments described under sub-sections "Layout - Roads Hierarchy"; "Layout - Footway/Footpaths"; "Parking - Driveway Functionality"; "Parking - Driveway Construction"; "Parking - provision of allocated spaces"; and "Parking - provision of unallocated spaces" within the East Renfrewshire Council Roads Service "Observations on Planning Application" consultation report dated 19 January 2024;

(ii) details of the traffic calming layout for the main access road; and

(iii) a swept path tracking drawing of a 3 axle refuse vehicle

shall be submitted and approved in writing by the Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: In the interest of public road safety.

14. There shall be no obstruction to visibility above 1.05 metres in height within the relevant forward sight stopping distance (FSSD) visibility splays. For this development, the minimum FSSD will be 25 metres for the main access road and 20 metres for the shared surface loop road.

Reason: To enable drivers to have a clear view over the road network in the interest of public road safety.

15. A visibility splay of 2.5 metres by 25 metres shall be provided at the junction of the loop road with the main access road prior to the occupation of any dwelling served by the loop road, and

thereafter maintained free from any obstructions exceeding a height of 1.05m above the adjacent road.

Reason: To enable drivers to have a clear view over the road network in the interest of public road safety.

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. All construction vehicles exiting the site shall have all tyres and wheels cleaned before entering the road.

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

17. The principles of Sustainable Urban Drainage Systems (SUDS) for the surface water regime shall be incorporated into the development. Development shall not commence until details of the surface water management and SUDS proposals have been submitted to and approved in writing by the planning authority. Thereafter the surface water management details shall fully be implemented as approved.

Reason: In the interests of sustainable development.

18. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological 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 protect any archaeological remains and to allow the planning authority to consider this matter in detail.

19. Prior to commencement of the development, a scheme shall be submitted to and approved by the Planning Authority setting out the measurements that have been or will be put in place within the site as required by the Local Development Plan 2 Policy E1. The said scheme shall include any phasing details as necessary. Thereafter the scheme shall be implemented as approved.

Reason: In order for the Planning Authority to consider these matters further and to ensure the development complies with the Local Development Plan 2.

20. Prior to the commencement of any development on site, details of the species and location of 6 additional new trees to be planted on the site shall be submitted and approved in writing by the Planning Authority. Thereafter the replacement trees shall be planted on the site no later than the first planting season following occupation of the last dwellinghouse. Any of those trees that die, are removed, damaged or diseased within 5 years of the completion of the landscaping programme shall be replaced in the next planting season with others of the same size and species. For the avoidance of doubt, the trees subject to this condition shall be native species and of heavy standard.

Reason: To mitigate the net tree loss within the site, in the interest of the amenity of the area.

21. Prior to the removal of any trees within the site, pre-construction checks shall be carried out as per the recommendations of the Ecology Assessment Addendum (June 2025), submitted in support of this application.

Reason: To safeguard protected species in the interest of the biodiversity of the area.

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

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 Developer is required to consult with East Renfrewshire Council's Development Plans Section by email to: [streetnaming@eastrenfrewshire.gov.uk](mailto: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](http://www.eastrenfrewshire.gov.uk/new-developments)

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 Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242.

Further information is also available on the Mining Remediation Authority website at: <https://www.gov.uk/government/organisations/mining-remediation-authority>

Waste materials arising from the development 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.

**ADDED VALUE:**

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

**BACKGROUND PAPERS:**

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

Ref. No.: 2025/0283/TP  
(DESC)

DATE: 30th July 2025

**DIRECTOR OF ENVIRONMENT**