

III PLANNING APPEAL DECISIONS – FORMER WALLED GARDEN, LINLATHEN GROVE AND LAND TO THE NORTH OF 1-19 LINLATHEN GROVE

There was submitted Agenda Note AN3-2022 which made reference to Planning Application references 20/00823/FULL and 20/00824/FULL which sought planning permission for 16 houses on land within the Former Walled Garden, Linlathen Grove and for 15 houses on land to the north of 1-19 Linlathen Grove. The applications by Kirkwood Homes were refused by the Planning Committee at its meeting on 17th May, 2021. The Committee refused the applications on the following grounds:-

1. The proposed development would exacerbate existing capacity issues within local infrastructure and community facilities such as health care and education. The applicant has also failed to provide adequate public transport provision and community shops and services in the immediate area for use by the residents of the proposed houses. The proposed development would therefore not integrate with any existing community infrastructure and fails to provide new community infrastructure. The application therefore fails to comply with Policy 2 of TAYplan 2016 - 2036.

2. The proposed residential development is in excess of 400 metres from existing public transport provision and would not provide convenient links to services such as schools and shops. The proposal therefore fails to minimise the need to travel by private car. The associated increase in vehicle movements to and from the site would have an adverse impact on the capacity of the local road network, result in additional congestion and be to the detriment of road, cyclist and pedestrian safety. The application therefore fails to comply with Policy 54 of the Dundee Local Development Plan 2019.

3. The proposed residential development would be sited within the Open Countryside Area, where there is a presumption against new development and the proposal does not meet any of the criteria of Policy 31. The application therefore fails to comply with Policy 31 of the Dundee Local Development Plan 2019.

Additionally, for application reference 20/00823/FULL:

4. The proposed residential development would result in the loss of habitat, trees and impact on species including bats, hedgehogs and birds. The proposal would therefore have a significant effect on the conservation interests of Dighty Burn Locally Important Nature Conservation Site, located immediately to the south of the site. The application therefore fails to comply with Policy 33 of the Dundee Local Development Plan 2019.

5. The application site falls outwith any allocated housing site, and the provision of private homes in this location fails to contribute to the tenure mix or regeneration objectives of the local area. The application therefore fails to comply with Policy 9 of the Dundee Local Development Plan 2019.

Planning appeal references PPA-180-2066 and PPA-180-2067 were submitted and the Reporter appointed by Scottish Ministers issued decisions on 25th November, 2021. The Reporter's decisions were to **DISMISS** both appeals and **REFUSE PLANNING PERMISSION**.

The Reporter considered the accessibility of the sites and having noted the distance to existing bus stops, and the absence of any community facilities nearby concluded that this would be development in a location where the Development Plan's aim of reducing the need to travel was not met.

In respect of traffic congestion, the Reporter noted that although small in number and much smaller than the 250 house development that has been permitted on neighbouring land, these 15 and 16 house developments would incrementally increase pressure on the local road network, specifically the Balgillo roundabout. He took the view that although the evidence was sufficient to warrant a conclusion against the appeal project on this issue it was not one which on its own would lead to its overall rejection.

Having considered the site locations within open countryside the Reporter saw no reason to support their development noting again that such development would not reduce the need to travel. Similarly, in respect of housing land supply nothing was put to the Reporter to indicate to him that there was any need for the houses proposed as a result of any general deficiency in land supply.

Finally, in respect of the impact of the development on wildlife and trees the Reporter concluded that the proposal was not in conflict with Policy 33 and that planning conditions could be used to mitigate construction impacts on wildlife. As the proposals would require only very limited loss of trees the Reporter was satisfied that planning conditions to control protection measures and compensatory planting together with those relating to wildlife meant that there was no proper justification for objecting to the proposal and that the appeals should succeed on this issue.

Claim for an Award of Expenses

The appellant had also submitted a claim for an award of expenses in respect of both appeals. The Reporter allowed a partial award of expenses in both cases. The reasoning for this was that the arguments that the Council put forward on conservation interests as part of its appeal case were very deficient. Had more account been taken of the quite detailed factual evidence provided by the appellants the Reporter believed that the Council would have reached a different view on wildlife and trees. His assessment was that the course that the Council took with regard to wildlife and trees was unreasonable. Unnecessary expenses were incurred by the appellants in dealing with the Council's case on that particular matter.

The appeal and expenses decisions can be accessed via the following links:

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=121697>

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=121698>