

#### **4 PLANNING APPEAL DECISION (AN40-2021)**

Planning Application Reference 20/00423/FULM sought planning permission for construction of residential development (150 houses) and associated works on land to the east of Ballumbie Road, Dundee, DD4 0TG. This application by Stewart Milne Homes North and Ballumbie Investments Ltd was refused by the Planning Committee at its meeting on 17th May, 2020. The Committee refused the application on the following grounds:

- the development of 150 houses on this part of allocated housing site H45 would, in conjunction with the approved development on the southern part of the wider site, result in a development of 226 houses. This is in excess of the indicative capacity of 150 houses as set out in Appendix 3 of the Dundee Local Development Plan 2019 and would result in overdevelopment that would likely lead to traffic congestion in the local area, with a detrimental effect on the capacity and safe functioning of the existing road network. This is contrary to the requirements of Criterion 4 of Policy 54 of the Dundee Local Development Plan 2019. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.

Planning appeal reference PPA-180-2065 was submitted and the Reporter appointed by Scottish Ministers issued a decision on 7th October, 2021. The Reporter's decision is to ALLOW the appeal and GRANT PLANNING PERMISSION subject to 24 planning conditions.

The Reporter accepted the technical evidence contained within the Transport Assessment and noted that it had been agreed by council transportation officers. The Reporter noted the concerns of the objectors but concluded that he could see no reason why the development would give rise to road safety concerns. He noted that one of the effects of the development would be to generate increased levels of road traffic in the local area and that increased traffic levels are an inevitable result of developing the site for housing. The Reporter noted that the capacity of the site in the local development plan is indicative rather than representing a cap, and neither the evidence of the objectors or the council demonstrates, in the Reporter's view, that the higher number of houses proposed represents over-development of the site.

The Reporter also considered whether there is a case for a primary school contribution. After consideration the Reporter did not support the Council's position that a financial contribution was required towards meeting the costs the Council has already incurred in building Ballumbie Primary School and went on to conclude that no contribution was required towards the cost of an extension to the school.

#### Claim for An Award Of Expenses Decision

The appellant also submitted a claim against the council for an award of its expenses in making the appeal. The Reporter found that the council has acted in an unreasonable manner as it did not adequately support the sole reason for refusal or explain the nature of its planning grounds for doing so. In particular the Reporter noted that there was no attempt by the Council to identify what kind of effects on the road network it was concerned about, when they would occur and what adverse impacts there would be. The Reporter found that the council is liable for the appellant's whole costs in making the appeal.

The appellant has submitted a figure of £9,500 excluding VAT as an indication of the costs incurred.

The full appeal and expenses decision can be accessed via the Scottish Government's Planning and Environmental Appeal Division website:

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=121685>