

III PLANNING APPEAL DECISION

PLANNING APPLICATION 23/00617/PPPM: LAND TO SOUTH OF WEST GREEN PARK AND EAST OF DYKES OF GRAY ROAD (HOUSING SITE H42)

There was submitted Agenda Note AN6-2025 where it was reported that Planning application 23/00617/PPPM sought planning permission in principle for residential development (up to 58 residential dwellings) with associated landscaping, open space, access, infrastructure, and other associated works. The application was refused by the Planning Committee at its meeting on 12th February, 2024 for the following reasons:

- (i) the applicant has not provided a Statement of Community Benefit. The proposal therefore fails to explain the proposal's contribution to local housing requirements, local infrastructure and residential amenity contrary to Policy 16b of National Planning Framework 4. There are no material considerations of sufficient weight to justify approval of the application; and
- (ii) the proposal fails to consider the need for affordable homes and does not propose any form of affordable housing. The proposal therefore fails to demonstrate compliance with Policy 16e of National Planning Framework 4. There are no material considerations of sufficient weight to justify approval of the application.

Planning appeal reference PPA-180-2072 was submitted to DPEA on 23rd April, 2024, and the Reporter appointed by Scottish Ministers issued a notice of intention to ALLOW the appeal and GRANT planning permission in principle on 6th August, 2024.

Prior to the appeal Decision Notice being issued, a planning obligation relating to primary education contributions and a road upgrade required to be in place. The required planning obligation had now been completed and the Decision Notice granting planning permission in principle was issued on 13th January, 2025.

The full appeal decision can be accessed via:

[23/00617/PPPM | Residential development with associated landscaping, open space, access, infrastructure, and other associated works | Land To South Of West Green Park And East Of Dykes Of Gray Road Dundee](#)

Claim for Award of Expenses

The appellant submitted a claim for an award of expenses during the appeal process. The applicants appeal for an award of expenses was based on matters including the reasons for refusal not being relevant, sound or clear cut, and that the Council did not have reasonable planning grounds to refuse the planning application contrary to recommendation.

With regards to the first reason for refusal, the appellant stated that the requirement for a stand alone Statement of Community Benefit was not expressed by the Council and that the information submitted with the application relating to the potential community benefits of the proposed development was included within the original application. Furthermore, the appellant considered that the requirements of NPF4 Policy 16 (Quality Homes) Part b) had been broadly met to the Council's satisfaction.

The Reporter found that by not submitting a Statement of Community Benefit, the appellant failed to comply with the wording as required under NPF4 Policy 16 b). The Council as decision maker was entitled to form an opinion on whether it considered the information submitted by the appellant satisfied the expectations of the policy. The provisions and expectations of NPF4 Policy 16 Part b) were available for the appellant to read and to ensure the application complied accordingly. Therefore, the Reporter found that that Council did not act unreasonably with regard to the first reason for refusal.

With regards to the second reason for refusal, the appellant considered that the Council incorrectly applied the provisions of NPF4 Policy 16 e) in the determination of the application, and that it was unreasonable for the Council to refuse the planning application on the basis of non-compliance with this policy. The appellant submitted that the proposal was brought forward in accordance with local policy.

and guidance, which identifies in the Dundee Local Development Plan 2019 and Developer Contributions Supplementary Guidance that there was no requirement for housing developments to make provision for affordable homes.

The Council's position was that it was reasonable to reach the conclusion that the LDP and NPF4 were incompatible. The position was that the approach towards affordable housing in its LDP was not sufficient to meet the requirements of the lower affordable housing contribution exceptions illustrated in NPF4 Policy 16 (e).

The Reporter found that the Council's approach Towards the Delivery of Affordable Housing as set out in its Adopted LDP And Statutory Supplementary Guidance was sufficient to be taken into consideration under the provisions of NPF4 Policy 16 e). The Reporter considered the Council did not provide substantive evidence to support its position that the LDP and Statutory Supplementary Guidance were no longer appropriate or had been superseded by an alternative approach to delivering affordable housing. The Reporter considered that the Council failed to clearly support its second reason for refusal and demonstrate that it had reasonable planning grounds for its decision, failing to provide sound reasons and demonstrate rational planning grounds for its decision on this matter. The Council was therefore found to have acted unreasonably with regards to reason 2.

In concluding assessment for the Claim for Award of Expenses, the Reporter stated that the Council did not act unreasonably by refusing the application on the first reason, therefore the appellant would have incurred costs in bringing the matter before the Scottish Ministers by appealing this first reason for refusal. In addition to this, the appellant had not provided any information regarding unnecessary expenses that had been incurred solely in relation to their appeal on the second reason for refusal. In conclusion, the Reporter found that the unreasonable behaviour from the Council regarding reason 2 had not resulted in the appellant incurring unnecessary expense. Therefore, no award of expenses was made.