

FPRB Reference: 20/359

Review Decision Notice

Decision by Fife Planning Review Body (the FPRB)

- Site Address: Land West of Greenmount Road North, Burntisland
- Application for review (conditions appeal) by JJF Planning on behalf of Mrs Stevenson against the decision by an appointed officer of Fife Council
- Application 20/03131/ARC - Erection of 11 dwellinghouses (Application No. 20/03131/ARC).
- No Site Inspection took place.

Date of Decision Notice: 7th September, 2022.

Decision

The FPRB approves the application unconditionally and the content of the Decision Notice will be delegated to the Head of Legal and Democratic Services, in consultation with the Convener for the reason(s) outlined below in section 4.0.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for Planning Permission was considered by the FPRB at its meeting on 22nd August 2022. The Review Body was attended by Councillors David Barratt (Convener), Fiona Corps, Jane Ann Liston and Lynn Mowatt.

2.0 Proposal

- 2.1 The application site relates to an area of land of approximately 1.1 hectares in size situated within an established residential area within the settlement envelope of Burntisland, as defined in the Adopted FIFEplan (2017). The application site itself is zoned as a Housing Opportunity site (ref BUR 006). The overall site itself was originally granted planning permission in principle under reference 15/00825/PPP for the erection of 11 dwellinghouses with associated access road on 24th March 2016. The surrounding area is predominately residential in nature with dwellinghouses being predominately two storeys in height. Vehicular access to the site is at the corner of Greenmount Road North with Kirkcaldy Road. The application site also includes an existing dwellinghouse, No 36 Greenmount Road North, which is accessed from the existing opening at the junction of Greenmount Road North with Kirkcaldy Road. There is another existing opening on Kirkcaldy Road.

2.2 This application seeks a review of two planning conditions contained within the Planning Permission 20/03131/ARC. Firstly, to delete the final sentence of Condition 1 suggesting that the internal road design had not been approved. Secondly, to delete Condition 5 in its entirety relating to the provision of an internal road link between the two proposed access points.

2.3 The proposed amendment to each condition is shown as follows:

1. BEFORE THE OCCUPATION OF ANY PART OF THE DEVELOPMENT, parking, manoeuvring, servicing, turning and access driveway areas shall be provided in accordance with the current Fife Council Transportation Development Guidelines and thereafter maintained and kept available as such. ~~FOR THE AVOIDANCE OF DOUBT the internal access arrangements demonstrated on the proposed block plan are not approved.~~

~~5. FOR THE AVOIDANCE OF DOUBT, a link road shall be provided between the two access points referred to in condition 7 in accordance with the current Fife Council Transportation Development Guidelines and thereafter maintained and kept available as such.~~

Note: Deletions in ~~strikethrough~~ and **bold**.

3.0 Reasoning

3.1 The determining issue in this review relates to transportation and road safety matters. The FPRB considered the terms of the Development Plan which comprises the SESplan (2013) ("Strategic Development Plan") and the Adopted FIFEplan (Fife Local Development Plan 2017) ("Adopted FIFEplan"). The FPRB also considered the provisions of Making Fife's Places Supplementary Guidance (2018) (including Appendices). Scottish Planning Policy ("SPP"). They also assessed the proposed amendments to the conditions relating to the tests associated with Circular 4/1998 The Use of Conditions in Planning Permissions.

3.2 Firstly, the FPRB reviewed the reason for Condition 1 (internal access arrangements) and 5 (internal road link). They took into consideration that both conditions had been sought in the interests of road safety, to ensure that the application proposal resulted in an adequate design layout and to ensure provision of suitable access locations with respect to the existing road network.

3.3 In response to this, the FPRB noted that a series of transport related conditions had been recommended by Transportation Development Management relating to internal road layouts and road design but these conditions had not been specifically requested. The FPRB noted that a conditions appeal had been granted historically by the FPRB, which approved the deletion of a condition that replicated Condition 5. The FPRB then took into consideration the reason for the FPRB's previous decision, noting that Transportation Development Management had, at that time, confirmed that this condition was not required.

3.4 Based on the above, the FPRB considered an updated response from Transportation Development Management, received after the appeal had been submitted, which confirmed that they had no objection to the proposed amendments. Specifically that the proposed internal layout would be approved and that the vehicular link between the plots would not be required and its replacement with a cycleway/footway would be acceptable.

- 3.5 Based on the above, the FPRB reviewed Conditions 1 and 5 to considered whether the proposed conditions, as amended, would meet the Circular 4/1998 'tests' for conditions. Specifically whether they would be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 3.6 In this regard, the FPRB discussed the wording within Condition 1 which suggested that the internal access arrangements were not approved and determined that this text was not necessary nor relevant under the Circular 4/1998 tests as the layout had been approved by the ARC planning permission. The FPRB then discussed and assessed the amendment to Condition 1 against the other Circular 4/1998 tests resolving that the wording was not precise, as it was incorrect, and that it would not be enforceable as the approved Site Plan had been approved by the ARC decision being granted. They also considered that the text was relevant to plaining and the development to be permitted but that it was not reasonable given that it was inconsistent with the layout that had been approved. Overall, the FPRB determined that the amended Condition 1 would meet the tests above and would not result in any unacceptable impacts to the proposed design, layout, road safety or other transportation matters and this amendment should be granted.
- 3.7 Reviewing Condition 5, the FPRB, discussed the relevance of this condition with Respect to Circular 4/1998, agreeing that this condition was not relevant to the proposed development given that it had already been removed by the FPRB and that Transportation Development Management had maintained that it would not be required to create an acceptable road safety and transportation outcome. The FPRB also noted that Condition 5 was no longer necessary given that the approved layout specifically include a shared cycleway/footpath within this location and that this arrangement had been accepted by Transportation Development Management. The FPRB suggested that the condition could be precise, enforceable and relevant to planning but that the response to the preceding tests, they resolved that the condition was unacceptable and agreed that it should be deleted. Considering any potential consequential impacts, the FPRB discussed potential for road safety issues, noting no object from the Council's internal experts, and agreed that removing a road link would not result in unacceptable residential amenity. They also resolve that it would not result in any design impacts as the layout without an internal road link had already been assessed and the Planning Authority had determined that this would be acceptable. The FPRB agreed.
- 3.8 In conclusion, the FPRB determined that the proposed amendments to the conditions, including amending Condition 1 and deleting Condition 5, would be acceptable and would meet the test of Circular 4/1998 cognisant of the Development Plan. They noted that there were no other material considerations that would outweigh this decision. The FPRB therefore resolved to grant Planning Permission unconditionally and delegate the wording of the final conditions to the Head of Legal and Democratic Services in consultation with the Convener.

4.0 Decision

- 4.1 The FPRB approves the application unconditionally to amend Condition 1 and Delete Condition 5 of the Original Planning Permission 20/01313/ARC and **APPROVES MATTERS SPECIFIED IN CONDITIONS** subject to the following conditions:

1. BEFORE THE OCCUPATION OF ANY PART OF THE DEVELOPMENT, parking, manoeuvring, servicing, turning and access driveway areas shall be provided in accordance with the current Fife Council Transportation Development Guidelines and thereafter maintained and kept available as such.

Reason: In the interests of road safety; to ensure the provision of an adequate design layout and construction.

2. BEFORE THE ACCESS ON KIRKCALDY ROAD IS BROUGHT INTO USE, visibility splays of 2.4m metres by 43 metres shall be provided in both directions at the junction of the new access with Kirkcaldy Road in accordance with the current Fife Council Transportation Development Guidelines. Thereafter these shall be permanently maintained free from any obstructions exceeding a height of 600mm above the adjacent road channel levels.

Reason: In the interests of road safety; to ensure the provision and maintenance of adequate visibility at junctions and accesses.

3. BEFORE THE ACCESS ON GREENMOUNT ROAD NORTH IS BROUGHT INTO USE, visibility splays of 2.4m metres by 25 metres shall be provided in both directions at the junction of the new access with Greenmount Road North in accordance with the current Fife Council Transportation Development Guidelines. Thereafter these shall be permanently maintained free from any obstructions exceeding a height of 600mm above the adjacent road channel levels.

Reason: In the interests of road safety; to ensure the provision and maintenance of adequate visibility at junctions and accesses.

4. Within 3 months of consent being granted and prior to any works being undertaken on site, revised plans shall be submitted for approval by Fife Council as Planning Authority showing the provision of 2m x 25m visibility splays at the junction of the new access to Plot 9 and the public road. These splays shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, in accordance with the current Fife Council Making Fife's Places Appendix G and this requires the realignment of the boundary wall of Plots 8 and 9. Once approved, these visibility splays shall be retained for the lifetime of the development and as per the layout shown on the relevant plan.

Reason: In the interest of road safety; to ensure the provision of adequate visibility at the junction of the access to the site and the public road.

5. Prior to the occupation of each dwelling, there shall be provided within the curtilage of each plot 3 off-street parking spaces (excluding the integral garages) for vehicles in accordance with current Fife Council Making Fife's Places Appendix G and as per the layout shown on Drawing No 01A. The parking spaces shall be retained for the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

6. The presence of any previously unsuspected or un-encountered contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the Planning Authority.

Reason: To ensure all contamination within the site is dealt with.

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Proper Officer

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions

NOTICE TO ACCOMPANY REFUSAL ETC. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8).

1. If the applicant is aggrieved by the decision of the planning authority -
 - (a) to refuse permission for the proposed development;
 - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
 - (c) to grant permission or approval, consent or agreement subject to conditions,

the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.