

**A meeting of the Planning Board will be held on Wednesday 8 January 2020 at 3pm within the Municipal Buildings, Greenock.**

GERARD MALONE  
Head of Legal & Property Services

## **BUSINESS**

1. **Apologies, Substitutions and Declarations of Interest**
2. **Discharge of Planning Obligation**  
Report by Head of Regeneration & Planning on application by Ms S McNeill for discharge of planning obligation (refers to planning application IC/06/201) at Carraig View, Parkhill, Old Greenock Road, Port Glasgow (19/0002/MP)

Enquiries to – **Rona McGhee** – Tel 01475 712113

Report To: The Planning Board

Date: 8 January 2020

Report By: Head of Regeneration and Planning

Report No: 19/0002/MP

Contact Officer: James McColl

Contact No: 01475 712462

Subject: Discharge of planning obligation (Refers to Planning Application IC/06/201) at Carraig View, Parkhill, Old Greenock Road, Port Glasgow



#### SUMMARY

- The proposal presents no conflict with the Inverclyde Local Development Plan.
- No objections have been received.
- The recommendation is to DISCHARGE THE SECTION 75 AGREEMENT.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=PX1PJ9IM00E00>

## **BACKGROUND**

Situated at Parkhill Farm on the northern side of Old Greenock Road, Port Glasgow, the dwellinghouse lies within the Green Belt as defined by the Inverclyde Local Development Plan. It is located approximately 450 metres east of the edge of Port Glasgow.

Planning permission in outline was first granted for the erection of a detached bungalow within the grounds of Parkhill Farm in November 2005. Planning permission was granted subject of a Section 75 Agreement in respect of restricting the occupancy of the house. The approval of reserved matters was subsequently granted in April 2006. A further planning application was granted in October 2007 to reposition the proposed house due to poor ground conditions at the original position. The Section 75 Agreement was amended to reflect this.

In support of the planning application for the new house, it was advised that the owner of Parkhill Farm intended to retire and that his daughter would take over the responsibility for the upkeep, stabling, training and breeding of horses at the Farm. It was also indicated that she would take responsibility for the running of the martial arts academy at Parkhill Farm and that she and her family would additionally work in agriculture. Accordingly, the applicant was willing to enter into the Section 75 Agreement restricting the occupancy of the house to persons solely or mainly employed in agriculture, persons solely or mainly employed or last employed in the equestrian business at Parkhill Farm or persons solely or mainly employed in the operation and management of the martial arts academy at Parkhill Farm.

## **PROPOSAL**

The applicant seeks to discharge the obligations within the Section 75 Agreement.

In a statement submitted in support of the application, it is advised that the applicant has lived within the dwellinghouse since it was constructed and was initially employed in the operation of the martial arts academy and the equestrian business at Parkhill Farm. The applicant's sister has since returned to Parkhill Farm and has taken over the running of both the martial arts academy and equestrian business meaning that neither of the occupants of the house now have any involvement with the operations of the martial arts academy and equestrian business. There is nothing which has been submitted which indicates that either of the occupants of the house have ever been employed in agriculture.

## **DEVELOPMENT PLAN POLICIES**

### **Policy 1 - Creating Successful Places**

Inverclyde Council requires all development to have regard to the six qualities of successful places. In preparing development proposals, consideration must be given to the factors set out in Figure 3. Where relevant, applications will also be assessed against the Planning Application Advice Notes Supplementary Guidance.

### **Policy 14 - Green Belt and Countryside**

Development in the Green Belt and Countryside will only be permitted if it is appropriately designed, located, and landscaped, and is associated with:

- a) agriculture, horticulture, woodland or forestry;
- b) a tourism or recreational use that requires a countryside location;
- c) infrastructure with a specific locational need;
- d) the appropriate re-use of a redundant stone or brick building, the retention of which is desirable for its historic interest or architectural character, subject to that interest or character being retained; or
- e) intensification (including extensions and outbuildings) of an existing use, which is within the curtilage of the associated use and is of an appropriate scale and form.

Proposals associated with the uses set out in criteria a)-c) must provide justification as to why the development is required at the proposed location.

### **Policy 17 - Land for Housing**

In order to enable Clydeplan's all-tenure housing supply target for the whole of Inverclyde, of 4,400 house completions between 2012 and 2029, to be delivered, proposals for housing development on the sites listed in Schedule 3 and Schedule 4 of this plan and shown on the proposals map will be supported in principle, subject to detailed consideration.

The Council will undertake an annual audit of housing land in order to ensure that it maintains a 5 year effective housing land supply. If additional land is required for housing development, the Council will consider proposals with regard to the policies applicable to the site and:

- a) a strong preference for appropriate brownfield sites within the identified settlement boundaries;
- b) there being no adverse impact on the delivery of the Priority Places and Projects identified by the Plan; and
- c) evidence that the proposed site(s) will deliver housing in time to address the identified shortfall within the relevant Housing Market Area.
- d) a requirement for 25% of houses on new greenfield release sites in the Inverclyde villages to be for affordable housing.

Further information and advice on the provision of affordable housing on greenfield sites in the Inverclyde villages will be provided in supplementary guidance.

### **CONSULTATIONS**

None required.

### **PUBLICITY**

The nature of the proposal did not require advertisement.

### **SITE NOTICES**

The nature of the proposal did not require a site notice.

### **PUBLIC PARTICIPATION**

No representations were received.

### **ASSESSMENT**

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 introduced a right to apply to the Planning Authority to have a Planning Obligation modified or discharged.

In assessing this application to discharge the obligations within the Section 75 Agreement in respect of the occupancy of the dwellinghouse, the material considerations are national policy and guidance, the Inverclyde Local Development Plan and the planning history of the site.

In first considering the planning history of the site, the house is located within the Green Belt. In originally granting planning permission for the development, the Council was satisfied that the house was required in connection with the operation of the existing, established businesses at Parkhill Farm. Accordingly, it was considered to comply with Policy DS10 of the 2005 Inverclyde Local Development Plan (which formed part of the Development Plan at the time) on the basis of the specific locational need, notably the requirement to allow on-site supervision of the equine operations. Subject to the successful conclusion of the Section 75 Agreement in respect of the

occupancy of the house, it was considered that the proposal could be supported. This approach was at that time a well-established practice taken throughout Scotland by planning authorities.

Assessing the application to discharge the obligations within the Section 75 Agreement, I note that the applicant's position is based on a change in circumstances in respect of the operation of the existing businesses at Parkhill Farm. Accordingly, the occupiers of this house are no longer required in respect of supporting the operation of these businesses and, indeed, are no longer involved with these businesses. There is also no suggestion that the occupiers of the house have ever been involved with agriculture.

There are no policies within the adopted Local Development Plan which specifically address applications to discharge planning obligations. Policies 14 and 19 address development in the Green Belt and Countryside, and individual and small scale housing in the Green Belt and Countryside respectively. Whilst, in the absence of the requirement for a house to support the operation of existing businesses at this location, a new build house would fail to satisfy the criteria set out within Policies 14 and 19, this is not the test here. The test is whether the discharge of the obligations within the Section 75 Agreement in respect of this existing house is justified with reference to current national policy position.



The current national policy position was established by the Scottish Government's Chief Planner, who wrote to planning authorities on this subject in 2011. The advice is now further clarified by paragraphs 81-83 of Scottish Planning Policy 2014. Both unequivocally advised against the use of conditions involving the occupancy restrictions and Section 75 Agreements which were designed to achieve the same purpose. It should be noted that following the publication of the Chief Planner's letter the Council's refusal to discharge a similar condition at Valley View Farm, Douglass Farm, Port Glasgow was overturned on appeal to the Scottish Ministers.

This position has been more recently confirmed in current Scottish Planning Policy (SPP), with Paragraph 81 making reference to the need to avoid occupancy conditions. Further advice is set out in Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Paragraph 50 recognises that occupancy restrictions have historically been used particularly in respect of housing in rural areas, these are rarely appropriate and should be avoided noting that they can be intrusive, resource-intensive, difficult to monitor and enforce, and can introduce unnecessary burdens or constraints. Paragraph 51 goes on to advise that where the Authority is satisfied that an adequate case [for the development] has been made, it should not be necessary to use a planning obligation as a formal mechanism to restrict occupancy or use.

Whilst it is disappointing that the applicant now advises that the occupation of the house is no longer required in connection with the operations of the existing businesses at Parkhill Farm, it is confirmed that this was the original intent and the occupants have fulfilled this role. Circumstances have changed and it remains that the determination of this application to discharge the obligations within the Section 75 Agreement must be based on the current policy position. In this respect, the use of an obligation within a Section 75 Agreement to restrict the occupancy of dwellinghouse in the circumstance does not comply with subsequent Scottish Government policy and advice. Accordingly, it is considered that the planning obligation within the Section 75 Agreement associated with Planning Permission IC/06/201 should be discharged.

## **RECOMMENDATION**

That the Section 75 Agreement in respect of planning permission IC/06/201 be discharged.

Stuart Jamieson  
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact James McColl on 01475 712462