

Report To: The Planning Board

Date: 2 September 2020

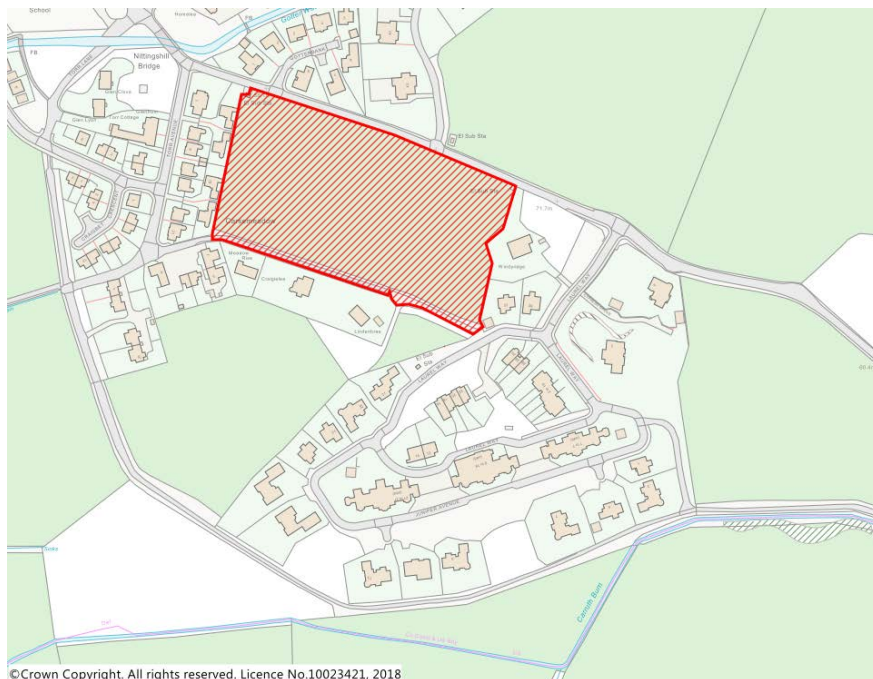
Report By: Head of Regeneration and Planning

Report No: 18/0190/IC
09/20
Major Application
Development

**Contact
Officer:** David Ashman

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Subject: Planning Permission in Principle for residential development, access, infrastructure, landscape/open space, and associated works
at
Carsemeadow, Quarriers Village



SUMMARY

- The planning application was refused by Inverclyde Council.
- The applicant appealed the decision to the Scottish Ministers.
- The appeal was dismissed.
- The applicant appealed to the Court of Session and was successful.
- The appeal decision has been quashed and remitted back to the Scottish Ministers for further consideration.

Details of the appeal may be viewed at:
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=121085>

INTRODUCTION

In January 2019, the Council refused planning permission in principle for residential development as:

1. The proposed development is contrary to the Spatial Development Strategy of the 2017 Clydeplan Strategic Development Plan as it is an unjustified urban development which fails to accord with the Green Belt objectives in that it does not direct planned growth to the most appropriate locations nor, protect the quality, character, landscape setting and identity of the village.
2. The proposal is contrary to Policies ENV2 and SDS8 of the 2014 Inverclyde Local Development Plan together with Policy 14 of the 2018 Proposed Inverclyde Local Development Plan in that it fails to accord with the objectives of the Green Belt.
3. The proposal fails to have regard to the six qualities of successful places as required by Policy 1 of the 2017 Clydeplan Strategic Development Plan and Policy 1 of the 2018 Proposed Inverclyde Local Development Plan. The proposal is also contrary to the placemaking aims of policy SDS3 of the 2014 Inverclyde Local Development Plan.
4. The proposal is not a form of residential development in the Green Belt supported by Policy RES7 of the 2014 Inverclyde Local Development Plan.
5. The proposal fails in respect of Policy RES1 of the 2014 Inverclyde Local Development Plan with reference to the incompatibility with the character and amenity of the area (criterion (a)) and in respect of landscaping proposals and impact on existing landscape features (criteria (b) and (c)).
6. The proposal is contrary to Policies SDS2 and TRA2 of the 2014 Inverclyde Local Development Plan and Policy 10 of the 2018 Proposed Inverclyde Local Development Plan in that it fails to be reasonably accessed by public transport and as such will generate significant traffic demand by private car and will not contribute to sustainable development.
7. The proposal is contrary to Policy HER1 of the 2014 Inverclyde Local Development Plan and Policy 28 of the 2018 Proposed Inverclyde Local Development Plan in that there would be a significant and unacceptable impact on the setting and appearance of the Conservation Area and its spatial relationship with the site of the former Bridge of Weir Hospital site.

NOTIFICATION OF APPEAL DECISION

An appeal against the refusal was lodged with the Scottish Government on 18th March 2019. The grounds of appeal contested all the grounds of refusal.

The appointed Reporter found that the main issues were the housing land supply position; sustainability; the impact on the character of the settlement and the local area; the impact on the Green Belt; and the Scottish Planning Policy presumption in favour of sustainable development.

With regard to the housing land supply position she noted the contrasting methods of calculation and the identified areas of shortfall. She considered that policy required that, in respect of any shortages in the Renfrewshire Sub-Market Area, consideration of any shortfall had to be within the Sub-Market Area as a whole, with the effective land supply in the smaller geographic area relating to Kilmacolm and Quarriers Village not being a relevant consideration. She also considered the Inverclyde Council area housing requirement. She could not conclude that there was a shortfall in the effective private housing land supply in the Sub-Market Area but that there was a probable shortfall in the private land supply in the local authority area. She noted that, having concluded there was a shortfall, reference has to be made to Clydeplan Policy 8 which

sets out criteria against which planning applications for housing development should be assessed.

In reviewing these criteria she concluded that this was not a sustainable location for the proposed development; was not convinced there would be no detrimental effect on the character and amenity of the area; and considered that the proposal would not comply with the need to avoid undermining the green belt. Following this she concluded that the presumption in favour of sustainable development in the Scottish Planning Policy would not apply. Although other material considerations were also taken into account nothing led her to depart from this conclusion.

COURT OF SESSION APPEAL

Following the Reporter's decision the applicant appealed to the Court of Session.

The issues raised were : first, the correct construction and application of paragraph 33 of Scottish Planning Policy ("SPP"), notably the "tilted balance" in favour of development; and, secondly, the assessment of the quantity of effective housing land. The appellant maintained, on both of these issues, that the Reporter did not give adequate reasons for her decision.

The Court concluded that the Reporter did give adequate reasons for her decision. The question was whether her reasoning was sound and on this the Court found for the appellant. The central conclusion of the Court, based on what it considered to be the correct application of paragraphs 33 and 125 of the SPP, is that the starting point for assessment of an application, where a Local Development Plan ("LDP") is considered to be out of date and where a housing land supply shortfall is identified, is that there should be a presumption in favour of the development because it provides, *inter alia*, a solution at least in part to the housing shortage. Indeed, the Court concluded that a housing development which will remedy, to some extent, a housing shortage is something which will almost inevitably "contribute to sustainable development", which is what, it considered, paragraph 33 of the SPP requires "in one degree or another". The Court considered that it was only thereafter that the question of the adverse impacts, notably whether the other policies of the LDP "significantly and demonstrably outweighed" the benefits of the development in terms of housing shortage and economic gain, should be taken into account.

On the second matter of how the housing shortage should be calculated, it was concluded that the figure with which the effective housing supply should be compared is the Housing Land Requirement, which is the Housing Supply Target augmented by 15%, and that the greater the shortage in the effective supply compared to the Housing Land Requirement, the heavier the weight which tilts the balance in favour of development will be. The Court opined that if the appellant's figures for the shortage are correct, that weight may well be very substantial.

The appeal was upheld and the decision of the Reporter quashed. The appeal against the refusal of planning permission by the Council has therefore been remitted back to the Scottish Ministers for fresh consideration. At the time of writing this report the re-consideration of the appeal was ongoing by the Scottish Ministers.

RECOMMENDATION

That the Board notes the position.

Stuart Jamieson
Head of Regeneration and Planning