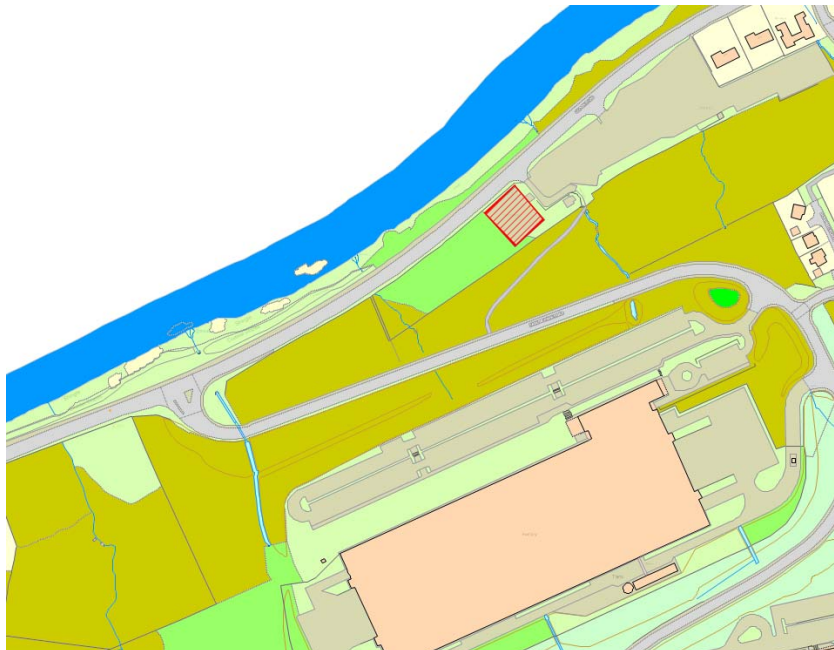

Report To:	The Planning Board	Date:	5 March 2014
Report By:	Head of Regeneration and Planning	Report No:	14/0001/MP Plan 03/14
Contact Officer:	David Ashman	Contact No:	01475 712416
Subject:	Discharge of Section 50 Agreement on planning permission IC/87/137 (use of tennis courts land) at Tennis Court, Site Of Demolished Ramada Jarvis Hotel, Cloch Road, Gourock		

BACKGROUND

Planning permission was granted in August 1987 for the formation of two tennis courts, associated enclosure and floodlighting on part of the land to the west of what was then the Gantock Hotel.



The tennis courts were to be constructed in what was then a site within the Green Belt and, in view of this, it was considered necessary to restrict the use of the land to tennis courts. A Section 50 Agreement, in terms of The Town & Country Planning (Scotland) Act 1972, was entered into by the applicant, Stakis Public Limited Company, and by Inverclyde District Council. The Agreement restricts the use of the land to solely as tennis courts "in all time coming" and for no other purpose whatsoever and no buildings or erections of any kind other than fencing, floodlighting and drainage ancillary to the tennis courts. The Agreement also controlled timing of the provision and maintenance of landscaping and no alterations to floodlighting were to occur without the approval of the Council. The Agreement was to be enforceable against Stakis Public Limited Company and any of their successors in title.

PROPOSAL

The hotel has been demolished and residential flats are currently being developed on the site to the east of the tennis courts. I have had pre-application discussions in respect of further development to the west of their current site but the Section 50 Agreement is an impediment to any future development. Discharge of the obligations of the Section 50 Agreement is therefore sought.

THE LEGISLATIVE POSITION

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 came into force on 1st February 2011. An annex to Circular 1/2010: Planning Agreements (Planning Obligations and Good Neighbour Agreements) was published in the same month. The Regulations introduced a right to apply to the Council to have a planning obligation modified or discharged. It also introduced a right of appeal to the Scottish Ministers where a planning authority refuses an application or fails to determine it within the set time period of two months.

The Regulations allow a planning authority to approve an application or refuse it but not to determine that the obligation should be subject to any modification other than set out in the application. The planning authority is required to take into account any changes in circumstances which mean that the obligation is no longer reasonable. An application for discharge or modification of an obligation has to be assessed against the same criteria for the initiation of an obligation. These are set out in Circular 1/2010 as follows:

- Necessity
- Planning purpose
- Relationship to proposed development
- Scale and kind
- Reasonableness

These form the basis of my assessment of the proposal.

ASSESSMENT

I am satisfied that the planning obligation was originally necessary, had a planning purpose, was relevant, appropriate to the scale of development and reasonable as the site was within the Green Belt. Applying the same tests now to the proposed discharge of the obligation, it has to be considered if any new circumstances apply.



The site remains in the Green Belt, under policy DS8 within the Inverclyde Local Plan. It is also within the current boundary of Clyde Muirshiel Regional Park under policy DS11. The proposed Inverclyde

Local Development Plan, however, includes the site within the built-up area under policy RES1. Also applicable is Policy RES3 as it includes the site within a schedule of development, which anticipates that a total of 80 residential units will be built. The Clyde Muirshiel Regional Park boundary has been altered to take it to Faulds Park Road, further west of the tennis courts. It also has to be considered that the hotel which was associated with the tennis courts has been demolished and there is therefore no relationship between the two to protect.

In view of the above I consider that the Agreement is no longer necessary, that no planning purpose is now served by it, particularly as there is no longer a relationship to the former hotel. It would be unreasonable to insist on the Agreement remaining in place because of this and also because although not the adopted Plan, the Local Development Plan presents a more current picture of Council policy in respect of the site which is identified for development.

RECOMMENDATION

That the Section 50 Agreement in respect of planning permission IC/87/137 be discharged.

Stuart Jamieson
Head of Regeneration and Planning

BACKGROUND PAPERS

1. Application form and plan.
2. Planning permission IC/87/137.
3. The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.
4. Circular 1/2010 and associated annex.
5. Letter to Heads of Planning from Scottish Government, dated 4th November 2011.



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