

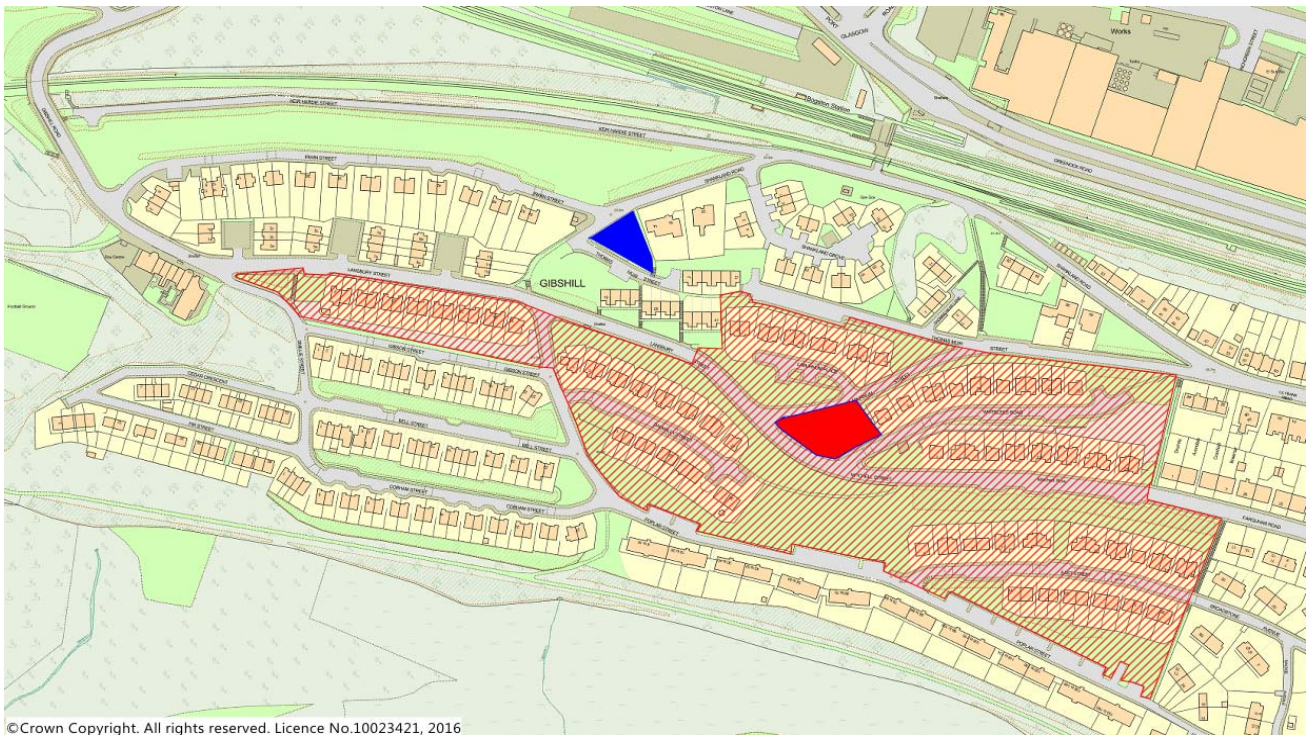
Report To: The Planning Board **Date:** 7th September 2016

Report By: Head of Regeneration and Planning **Report No:** 15/0137/IC
09/16

Contact Officer: David Ashman **Contact No:** 01475 712416

Subject: Application for certificate of non-compliance in respect of condition 15 of
the planning consent IC/05/287 (non-provision of play area) at
Gibshill, Greenock

**Local Application
Development**



SUMMARY

- The proposal accords with the intent of the Inverclyde Development Plan.
- Ten representations have been received, 1 of which made comments of objection proposing the alternative upgrading of the play facility at Birkmyre Avenue.
- Consultations present no impediment to development.
- The recommendation is to GRANT PLANNING PERMISSION subject to the recording of an agreement under Section 69 of the Local Government (Scotland) Act 1973

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=NP07E1IM00E00>

SITE DESCRIPTION

The application site comprises the Persimmon Homes development site centred on Lansbury Street and Mitchell Street in Gibshill, Greenock as hatched in red on the plan. The development consists of a mix of privately owned and socially rented detached and semi-detached houses. It also contains areas of amenity open space including an area of ground where it was proposed to provide a play area at the junction of Laburnum Street and Whitelees Roads with Lansbury Street to the west of 1 Whitelees Road, Greenock (coloured red on the plan).

PROPOSAL

Planning permission IC/05/287 was granted subject to conditions in September 2006 for the construction of 103 dwellinghouses with associated work to roads, footpaths, landscaping and the formation of a new play area. Condition 15 required that an equipped play area be completed and ready for use prior to occupation of the 75th dwellinghouse. The play area has not been provided and the site has, instead, been soft landscaped. The applicant now seeks non-compliance with the condition and, consequently, removal of the requirement to provide the play area within the site.

Although not forming part of this application, as a substitute the applicant is to commit the monies that would have been spent in the provision of the play area towards the provision of an equivalent play area on a Council owned area of land at Thomas Muir Street, adjacent to the application site (coloured blue on the plan).

DEVELOPMENT PLAN POLICIES

Policy RES1 - Safeguarding the Character and Amenity of Residential Areas

The character and amenity of residential areas, identified on the Proposals Map, will be safeguarded and where practicable, enhanced. Proposals for new residential development will be assessed against and have to satisfy the following criteria:

- (a) compatibility with the character and amenity of the area;
- (b) details of proposals for landscaping;
- (c) proposals for the retention of existing landscape or townscape features of value on the site;
- (d) accordance with the Council's adopted roads guidance and Designing Streets, the Scottish Government's policy statement;
- (e) provision of adequate services; and
- (f) having regard to Supplementary Guidance on Planning Application Advice Notes.

Planning Application Advice Note (PAAN) No.3 on "Private and Public Open Space Provision in New Residential Development" applies.

CONSULTATIONS

The proposal did not require consultation.

PUBLICITY

The application was advertised in the Greenock Telegraph on 19th June 2015 as there are no premises on neighbouring land.

SITE NOTICES

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

PUBLIC PARTICIPATION

Ten representations have been submitted. Although most indicate objection to the application there would appear to have been a misunderstanding as comments centre on not wanting the play area to be provided within the application site. Others have sought further information on the application.

In view of the above I consider that of the 10 representations, 1 made comments of objection, 5 are in support and the remaining 4 seek further clarification of the proposal. Those seeking clarification were responded to and have made no further comment.

The comments of those objecting to the application may be summarised as follows:

- If the play area is not to be built there should be upgrading of the nearby play facility at Birkmyre Avenue.
- Compensation should be provided to householders if the play area is not to be built.

The comments of those supporting the application may be summarised as follows:

- If the play area is being provided as originally proposed within the application site it would encourage loitering and vandalism, with examples of vandalism in the area cited.
- There is the possibility of more houses being constructed on the site of the play area.
- More development will create more pressure for on-street parking.
- The play park would be a source of noise nuisance.

ASSESSMENT

The material considerations in determination of this application are the Inverclyde Local Development Plan (LDP), Planning Application Advice Note (PAAN) No.3 on “Private and Public Open Space Provision in New Residential Development”, the planning history of the site and the representations.

If being considered now, the 2005 planning application for residential development would be assessed against LDP Policy RES1. This requires open space proposals to be assessed against PAAN3, which advises that “where developments are located in close proximity to established parks or play areas, the Council may, in appropriate cases, consider as an alternative to on-site provision of play equipment the supplementing, at the expense of the developer, of existing play equipment in the nearby park or play area”.



Original site of proposed play area

The play area was to be secured on site through condition 15 on the planning permission. It was acknowledged from the start of the development that although there was a requirement for an equipped play area to be provided, topography meant that it was difficult to secure an appropriate location within the site. The location selected was not ideal, being at the intersection of three roads, and possible alternative nearby safer locations have been sought throughout the development of the site. It was not possible, however, to secure a site either in the control of the applicant or the Council to allow such alternative provision. In the meantime the applicant failed to provide the play area approved under the terms of the planning permission and consideration was being given to the commencement of enforcement action.

In the interim negotiations have been concluded between the Council and River Clyde Homes to secure an area of ground at Thomas Muir Street, which is suitable for the provision of a play area of equivalent standard to that due to be provided within the site. The Head of Legal and Property Services has confirmed that title to the land has been secured which will allow the play area to be built. Although it will be constructed by the Council, it will be financed by Persimmon Homes in lieu of the play area due to be provided within the Gibshill site. The Council therefore now has full control over the provision of the play area and will be able to construct it under the Council's permitted development rights. The new play area will be in a safer location than that approved and is considered to be within reasonable walking distance of the application site. On this basis it is considered that, in principle, suitable alternative provision is being made and that non-compliance with the requirements of condition 15 may be granted in accordance with the guidance in PAAN3 in compliance with the Local Development Plan.



New proposed play area site.

It needs to be considered, however, if there are any material considerations suggesting that planning permission for non-compliance with the requirement to provide the play area within the application site should, contrary to the Development Plan, not be granted.

With respect to the objections, the matter of compensation to householders is not a material consideration. I note the reference to improving facilities at Birkmyre Avenue but consider the proposed provision at Thomas Muir Street a better option. On the points of support I would comment that non-provision of the play area within the site would address concerns over loitering and vandalism, confirm that there has been no approach from Persimmon Homes to build more houses on the site of the play area.

In conclusion, there are no material considerations which suggest that permission should not be granted for non-compliance with condition 15 of planning permission IC/05/287 requiring the provision of a play area within the application site. It is important, however, that the Council be satisfied that the proposed play area in lieu at Thomas Muir Street be fully financed by the applicant and that an agreement under Section 69 of the Local Government (Scotland) Act 1973 be recorded prior to the issuing of planning permission.

RECOMMENDATION

That upon the recording of an agreement under Section 69 of the Local Government (Scotland) Act 1973 for financial provision to support the construction of a new play area at Thomas Muir Street/Shankland Road, planning permission be granted.

Stuart Jamieson
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact David Ashman on 01475 712416.