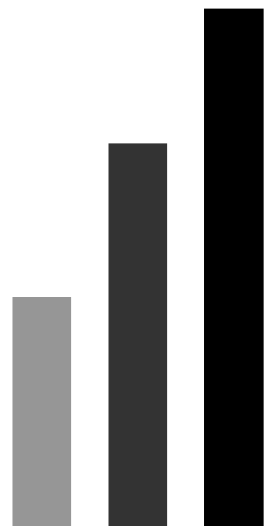


# Agenda 2016

# Planning Board

For meeting on:

7	September	2016
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**A meeting of the Planning Board will be held on Wednesday 7 September 2016 at 3pm within the Municipal Buildings, Greenock.**

GERARD MALONE  
Head of Legal & Property Services

**BUSINESS**

1. <b>Apologies, Substitutions and Declarations of Interest</b>	<b>Page</b>
2. <b>Planning Applications</b> Reports by Head of Regeneration & Planning on applications for planning permission as follows:-	
(a) <b>Ediston Real Estate on behalf of Clydebuilt LP</b> Construction of retail unit (Class 1) together with associated access, servicing and parking (amendment to planning permission 14/0402/IC): Former Scott Lithgow and East Glen Yards, Russell Way, Port Glasgow (16/0155/IC)	<b>p</b>
(b) <b>Persimmon Homes Ltd</b> Application for certificate of non-compliance in respect of condition 15 of planning consent IC/05/287 (non-provision of play area): Gibshill, Greenock (15/0137/IC)	<b>p</b>

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

**Report To: The Planning Board**

**Date: 7th September 2016**

**Report By: Head of Regeneration and Planning**

**Report No: 16/0155/IC  
09/16**

**Local Application  
Development**

**Contact Officer: David Ashman**

**Contact No: 01475 712416**

**Subject: Construction of retail unit (class 1) together with associated access, servicing and parking (amendment to planning permission 14/0402/IC) at Former Scott Lithgow and East Glen Yards, Russell Way, Port Glasgow**



### **SUMMARY**

- The proposal accords with the intent of the Inverclyde Development Plan.
- No representations have been received.
- Consultations present no impediment to development.
- The recommendation is to GRANT PLANNING PERMISSION subject to conditions.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=O92NTPIM00E00>

## **SITE DESCRIPTION**

The application site is an "L-shaped" area of ground to the south-western corner of the Port Glasgow Town Centre new retail development, immediately south of the B & Q store and to the west of the terrace of 7 under construction retail units and the Devol Burn. It covers a 0.2 hectare area of presently undeveloped ground. The new housing development at Mary Street lies directly across Ardgowan Street.

## **PROPOSAL**

Planning permission is sought for the construction of a 975 square metres (including mezzanine) free standing Class 1 retail unit, with a footprint measuring approximately 27 metres by 18 metres and rising to a height of 15.8 metres. The customer entrance will front the car park serving the retail development, with fenestration on both this and the eastern elevation fronting the Devol Burn. The building is to be finished in materials to match those used on the adjacent terraced units and will have its own dedicated staff and service access from Ardgowan Street.

Planning permission has previously been granted for a 353 square metres restaurant on this site as part of planning permission 14/0402/IC for the wider retail development.

## **LOCAL 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.

### **Policy RES6 - Non-Residential Development within Residential Areas**

Proposals for uses other than residential development in residential areas, including schools, recreational and other community facilities will be acceptable subject to satisfying, where appropriate, the following criteria:

- (a) compatibility with the character and amenity of the area
- (b) impact on designated and locally valued open space;
- (c) impact of the volume, frequency and type of traffic likely to be generated;
- (d) infrastructure availability;
- (e) social and economic benefits; and
- (f) the cumulative impact of such a use or facilities on an area.

### **Policy SDS3 - Place Making**

High-quality place making in all new development will be promoted by having regard to Inverclyde's historic urban fabric, built cultural heritage and natural environment, including its setting on the coast and upland moors. This heritage and environment will inform the protection and enhancement of Inverclyde by having regard to the Scottish Government's placemaking policies, in particular through the application of 'Designing Places' and 'Designing Streets' and through embedding Green Network principles in all new development.

## Policy SDS5 Development within the Urban Area

There will be a preference for all appropriate new development to be located on previously used (brownfield) land within the urban settlements, as identified on the Proposals Map.

## Policy SDS6 - Promoting our Town Centres

The three town centres, as identified on the Proposals Map, will be promoted and safeguarded for a variety of uses including business, civic, cultural, retail, entertainment, leisure and residential, with the development site at Port Glasgow Waterfront West performing a complementary role to the other town centres, particularly Greenock Strategic Town Centre, for comparison retail and commercial leisure developments.

## Policy TCR1- Network of Designated Centres

The following hierarchy of centres are designated as locations where a range of town centre uses will be appropriate in order to support the role and function of the particular centre, as well as their vitality and viability:

### Strategic Town Centre:

- (a) Greenock, subdivided into a 'Central Area' and 'Outer Area'

### Town Centres:

- (a) Port Glasgow
- (b) Gourock

### Local Centres:

- (a) The Cross, Kilmacolm
- (b) Dubbs Road, Port Glasgow
- (c) Sinclair Street, Greenock
- (d) Lynedoch Street, Greenock
- (e) Barrs Cottage (Inverkip Road and Dunlop Street), Greenock
- (f) Cumberland Walk, Greenock (proposed redevelopment)
- (g) Cardwell Road, Gourock
- (h) Kip Park, Inverkip
- (i) Ardgowan Road, Wemyss Bay

## Policy TCR2 - Sequential Approach to Site Selection for Town Centre Uses

Proposals for development of town centre uses as set out in Policy TCR3 will be subject to the sequential approach as set out below:

- (a) Greenock Central Area;
- (b) Port Glasgow and Gourock Town Centres;
- (c) Greenock Outer Area (subject to Policy TCR5);
- (d) sites on the edge of Greenock, Port Glasgow and Gourock Town Centres; and only then,
- (e) out-of-centre sites that are or can be made accessible by a choice of public and private transport modes.

The principles underlying the sequential approach also apply to proposals to expand or change the use of existing developments, where the proposals are of a scale or form sufficient to change a centre's role and function.

### Policy TCR3 -Town Centre Uses

The following town centre uses will be directed to the Central Area of Greenock Town Centre, Port Glasgow and Gourock Town Centres and the Local Centres, subject to Policy TCR7:

- (a) Use Class 1 (Shops);
- (b) Use Class 2 (Financial, Professional and other Services);
- (c) Use Class 3 (Food and Drink);
- (d) Use Class 11 (Assembly and Leisure); and
- (e) related uses such as public houses, hot food take-aways, theatres, amusement arcades and offices for taxis for public hire.

### Policy TCR6 - Town Centre/Retail Development Opportunities

The development of town centre uses on the sites included in Schedule 7.1 and as identified on the Proposals Map, will be encouraged and supported.

### Policy TCR7 - Assessing Development Proposals for Town Centre Uses

To assist the protection, enhancement and development of the designated Centres, all proposals for the development of town centre uses identified in Policy TCR3, or for any other commercial uses within a designated centre, will require to satisfy the following criteria:

- (a) the size of the development is appropriate to the centre for which it is proposed;
- (b) it is of a high standard of design;
- (c) it has an acceptable impact on traffic management and must not adversely impact on road safety and adjacent and/or nearby land uses;
- (d) it does not have a detrimental effect on amenity or the effective operation of existing businesses;
- (e) it is consistent with any Town Centre Strategy or other relevant initiative; and
- (f) has regard to Supplementary Guidance on Planning Application Advice.

Proposals for town centre uses outwith the designated Centres, unless they are small scale development to meet local needs that are subject to Policy TCR10, must also demonstrate:

- (g) that no appropriate sequentially preferable site exists;
- (h) that there is capacity for the development in terms of expenditure compared to turnover in the appropriate catchment area;
- (i) that there will be no detrimental impact, including cumulatively, on the viability and vitality of the designated Centres (Policy TCR1); and
- (j) in the case of temporary street markets, the operation will be for a maximum of 13 days in any 12 month period.

Proposals for retail and leisure development over 2,500 square metres outwith the designated town centres and that are not in accordance with the Development Plan should be accompanied by a retail impact analysis, as should any town centre proposal that the Council considers likely to have a potentially detrimental impact on the vitality and viability of the designated Centres. At the Council's discretion, applications for small-scale development of town centre uses outwith the designated Centres may be exempted from the requirement to be justified against criteria (g) - (i).

## **PROPOSED STRATEGIC DEVELOPMENT PLAN POLICIES**

### Policy 1 - Placemaking

New development should contribute towards the creation of high quality places across the city region.

In support of the Vision and Spatial Development Strategy new development proposals should take account of the Placemaking Principle set out in Table 1.

## Policy 4 - Network of Strategic Centres

Strategic centres are the hub of the city region's communities supporting a range of economic and social activities. It is recognised that the economic and social significance of Glasgow City Centre and its diverse range of core functions sets it apart from all other strategic centres.

To support the Vision and Spatial Development Strategy all strategic development proposals should:

- protect and enhance the development of the network of strategic centres in line with their role and function, challenges and future actions set out in Schedule 2;
- protect and enhance the long term health of Glasgow City Centre to ensure there is no detrimental impact on its role and function, as set out in Schedule 2 and in support of Joint Strategic Commitment - Glasgow City Centre; and
- recognise that whilst the Network of Strategic Centres is the preferred location for strategic scale development, such proposals are subject to the sequential approach set out in Scottish Planning Policy and the assessment of impact on the other Strategic Centres in the network to ensure that there is no detrimental impact on their role and function.

## CONSULTATIONS

**Scottish Environment Protection Agency West** – No objection.

**Head of Environmental and Commercial Services** – A junction radius of 9 metres should be provided on both sides of the vehicular access.

## PUBLICITY

The application was advertised in the Greenock Telegraph on 24th June 2016 as there are no premises on neighbouring land.

## SITE NOTICES

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

## PUBLIC PARTICIPATION

No representations were received.

## ASSESSMENT

The material considerations in determination of the application are the Glasgow and the Clyde Valley Strategic Development Plan (GCVSDP), the Proposed Glasgow and the Clyde Valley Strategic Development Plan (2016) (PGCVSDP), the Local Development Plan (LDP), the Scottish Planning Policy (SPP) and the planning history of the site.

The determining factor is the impact of this proposal on Development Plan policies when assessed in comparison to permissions previously granted.

Most of the application site sits just outside the Port Glasgow Town Centre boundary as identified by the Local Development Plan, as part of an area allocated for residential development under LDP policy RES1. This boundary anomaly has arisen as it was based on a much earlier planning permission and, at the time, this ground was not in the control of the then developer. Although identified within a residential area, it is read as part of the Town Centre retail development. Indeed, it is partly on the site of a previously approved Class 3 (food and drink) use (under planning permission 14/0402/IC). In this respect and with specific reference to the relevant criteria within LDP policy RES6, which address non-residential development within

allocated residential areas, the proposal is considered compatible with the character and amenity of the area (criterion (a)); there is no loss of valued open space (criterion (b)); a significant impact on the volume, frequency and type of traffic likely to be generated is not expected (criterion (c)); the unit would connect into existing infrastructure but would have its own dedicated service vehicular access (criterion (d)); it would bring social and economic benefits through employment creation (criterion (e)); and relative to the total floorspace presently being created within the new Town Centre development, it is considered that the cumulative impact will be acceptable, although this is considered in a wider context below (criterion (f)).



Outline planning permission for the principle of development on the wider site was established in 2000. This was followed by a reserved matters permission in 2006 for “the erection of non-food retail development and associated car parking and landscaping”. A second, detailed planning permission was granted in 2012 for “the erection of non-food retail development including car parking, landscaping, access works, service yards, security building and ATM.” This planning permission for 24,633 square metres of floorspace has been partly implemented through the construction of the B & Q unit leaving a balance of 20,452 square metres of retail floorspace.

Planning permission 14/0402/IC proposed a smaller scheme with an overall floorspace reduction. This planning permission has since been amended to take the overall remaining approved Class 1 floorspace up to 19,158 squares metres. In this context the proposed 975 square metres of Class 1 floorspace will take the total up to 20,133 square metres, which is still 19 square metres short of the originally approved scheme.

The Local Development Plan, as noted, does not incorporate most of the site within Port Glasgow Town Centre under LDP Policy TCR1, however the proposed development will be read as part of the new Town Centre development currently under construction. Whilst I note that LDP Policy TCR2 requires a sequential test for town centre uses identified in Policy TCR3, with Greenock Town Centre at the top of the hierarchy, like the previously approved restaurant it is appropriate to read it as associated with the new Town Centre development which is specifically identified for retail development purposes in Schedule 7.1 to LDP Policy TCR6. It should also be noted that previous restrictions, notably in respect of food based Class 1 uses, were intended to aid protection of Port Glasgow town centre; the new Town Centre development site now has to be viewed as an integral part of the enlarged Port Glasgow Town Centre as designated by the Local Development Plan.



The SPP instructs development plans to assess how centres can accommodate development and identify opportunities. The extension to Port Glasgow Town Centre has been promoted by the Council in partnership with the site owner and developer since 1998. The development opportunity was first identified in the Glasgow and the Clyde Valley Joint Structure Plan (2000), following a called-in inquiry in that year, in order to address an identified retail deficiency in Inverclyde. The associated development location was chosen as it was acknowledged that there was insufficient land to accommodate large-scale convenience and comparison retailing formats within Greenock Town Centre and that it would allow the provision of a fuller range of retail formats within Inverclyde. This was confirmed through the allocation of the associated 'edge-of-centre' site, linked to the existing Town Centre with the re-aligning of the A8 trunk road, in the adopted Inverclyde Local Plan 2005.



In developing the retail strategy for the LDP, the associated site's status as a retail/town centre development opportunity was carried forward from the 2005 Local Plan, in recognition that the retail deficiency was still to be met and that there were still no comparable opportunities to accommodate the type and scale of development proposed on the site within Greenock Town Centre. There are no vacant sites in Greenock Town Centre available to build a unit of this scale. Therefore, the proposal, when considered in the context of the wider development, is in keeping with the Inverclyde wide retail strategy of the LDP. The role of the adjacent site in an extended Port Glasgow Town Centre and the need for it to complement Greenock Town Centre are clearly set out in the LDP. I therefore consider that, with respect to Policy TCR2, carrying out a further sequential test on the current proposal is unnecessary. I also consider that it could be perverse on the basis that the previously approved larger scheme was found to be acceptable and could still be built out. It should also be recognised that this proposal is a substitute for an existing planning permission which, if implemented, would not require planning permission to change to a class 1 shop.

Notwithstanding the acceptability of the proposal in principle, with respect to the relevant criteria of Policy TRC7 I consider that:

- the size of the development is appropriate to Port Glasgow Town Centre as defined by the LDP (criterion (a));
- that the proposal is of a high standard of design within the context of the adjacent units (criterion (b));
- in noting no objection to the application from the Head of Environmental and Commercial Services, I consider that this proposal has an acceptable impact on traffic management and will not adversely impact on road safety, and adjacent and/or nearby land uses (criterion (c));
- when planning permission was granted for the previous, adjacent and larger overall proposal it was considered that it would not have a detrimental effect on the amenity or effective operation of existing businesses, and it follows that the same conclusion may be applied to the currently proposed development (criterion (d)); and

- the proposed layout allows for connections and linkages to adjacent developments thereby satisfying the development strategy to link this development to the wider town centre (criterion (e)).

The proposal also therefore complies in general terms with LDP Policies SDS3, SDS5 and SDS6.

Overall, I consider the proposal to accord with the overall strategy of the LDP, however it remains to be considered if there are any other material considerations which suggest that planning permission should not be granted.

With respect to the GCVSDP, the strategic priority to improve Greenock's retail offer at the regional and local level includes a recognition of Port Glasgow's complementary role as set out above and the site is identified as a town centre/retail opportunity. An increase in retail floor space of the overall development will not seriously impact on the spatial development strategy for Inverclyde. The increase is below the threshold to be considered a strategic scale of development and therefore does not require to be assessed against the GCVSDP. It follows that the proposal is in line with the strategic development strategy and accords with the retail policies. With respect to the Proposed GCVSDP, and specifically Policies 1 and 4, it is considered that the foregoing analysis addresses the issues of placemaking and the role of the Network of Strategic Centres, the latter with specific reference to Greenock Town Centre.

With respect to the remaining material considerations, I am satisfied that it will be possible to provide the radius of access required by the Head of Environmental and Commercial Services. Some other matters, such as dealing with contamination, follow on from the previous planning history of the site and may be addressed by condition.

I therefore conclude that the impact of this proposal is compliant with the intent of the Development Plan policies when assessed in comparison to permissions previously granted, and there are no material considerations which suggest that planning permission should be refused contrary to the intent of the Development Plan.

## **RECOMMENDATION**

That the application be granted, subject to the following conditions:

1. That for the avoidance of doubt, the facing materials shall match those used on the adjacent terraced units to the immediate east of the application site. Confirmation of the precise materials shall be provided in writing by the applicant prior to their use.
2. That the vehicular access, parking and manoeuvring areas shall be surfaced in a material to be approved in writing by the Planning Authority, shall be lined and available for use all prior to the unit hereby permitted being brought into use.
3. That all surface run-off shall be intercepted within the site at all times.
4. That the vehicular access shall be completed with 9 metres radius kerbs on either side of the entrance prior to the unit being brought into use.
5. That prior to the start of development, details of a survey for the presence of Japanese Knotweed shall be submitted to and approved in writing by the Planning Authority and that, for the avoidance of doubt, this shall contain a methodology and treatment statement where any is found. Development shall not proceed until treatment is completed as per the methodology and treatment statement. Any variation to the treatment methodologies will require subsequent approval by the Planning Authority prior to development starting on site.
6. That the development shall not commence until an environmental investigation and risk assessment, including any necessary remediation strategy with timescale for implementation, of all pollutant linkages has been submitted to and approved, in writing by

the Planning Authority. The investigations and assessment shall be site-specific and completed in accordance with acceptable codes of practice. The remediation strategy shall include verification/validation methodologies. This may be incorporated as part of a ground condition report and should include an appraisal of options.

7. That on completion of remediation and verification/validation works and prior to the site being occupied, the developer shall submit a Completion Report for approval, in writing, by the Planning Authority, confirming that the works have been carried out in accordance with the remediation strategy. This report shall demonstrate that no pollutant linkages remain or are likely to occur and include (but not be limited to) a collation of verification/validation certificates, analysis information, remediation lifespan, maintenance/aftercare information and details of imported/disposed/reused materials relevant to the site.
8. That the presence of any previously unrecorded contamination or variation to reported ground conditions that becomes evident during site works shall be brought to the attention of the Planning Authority within one week. Consequential amendments to the Remediation Strategy shall not be implemented unless it has been submitted to and approved, in writing, by the Planning Authority.
9. That no fill or landscaping material shall be imported onto the site until written details of the source and intended reuse of the imported materials has been submitted for approval, in writing by the Planning Authority. The report shall characterise the chemical quality (including soil-leachate and organic content etc.), volume and source of the imported materials with corresponding cross-sections and plans indicating spatial distribution and depth/thickness of material placement within the development site. The material from the source agreed only shall be imported in strict accordance with these agreed details.
10. The use of the development shall not commence until the applicant has submitted a completion report for approval, in writing by the Planning Authority, detailing all fill or landscaping material imported onto the site. This report shall contain information of the material's source, volume, intended use and verification of chemical quality (including soil-leachate and organic content etc.) with plans delineating placement and thickness.

#### Reasons

1. In the interests of visual amenity.
2. To prevent deleterious materials being carried onto the carriageway.
3. To help prevent flooding.
4. In the interests of vehicular safety.
5. To help arrest the potential spread of Japanese Knotweed in the interests of environmental protection.
6. To satisfactorily address potential contamination issues in the interests of environmental safety.
7. To provide verification that remediation has been carried out to the Planning Authority's satisfaction.
8. To ensure that all contamination issues are recorded and dealt with appropriately.
9. To protect receptors from the harmful effects of imported contamination.
10. To protect receptors from the harmful effects of imported contamination.

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.

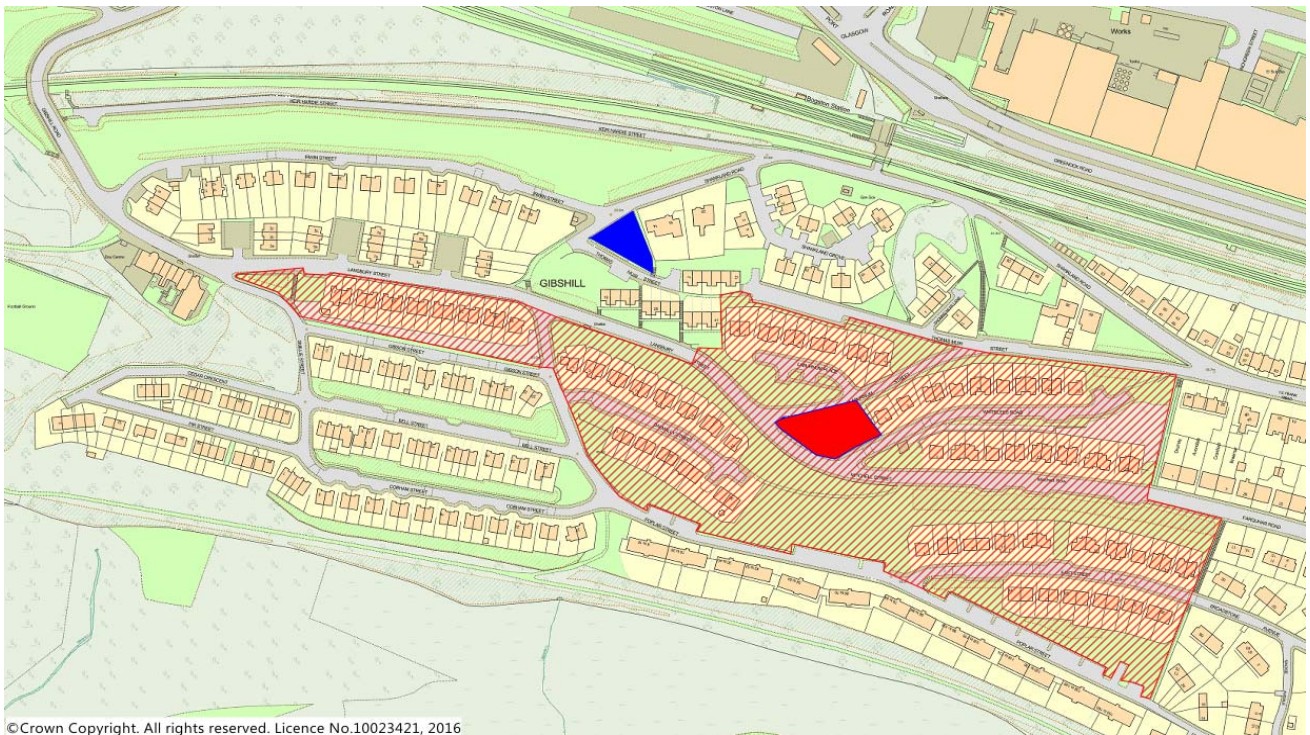
**Report To:** The Planning Board **Date:** 7th September 2016

**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 75<sup>th</sup> 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.

**INVERCLYDE COUNCIL  
PLANNING BOARD**

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Councillor Wilson	1
Provost Moran	1
Councillor Campbell-Sturgess	1
Councillor Brooks	1
Councillor Jones	1
Councillor McIlwee	1
Councillor Loughran	1
Councillor Dorrian	1
Councillor Nelson	1
Councillor Rebecchi	1

All other Members (for information only) 9

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Chief Executive	1
Corporate Communications & Public Affairs	1
Chief Officer, Health & Social Care Partnership	1
Corporate Director Environment, Regeneration & Resources	1
Head of Regeneration & Planning	1
Head of Environmental & Commercial Services	1
Head of Legal & Property Services	1
Legal Services Manager (Procurement/Conveyancing)	1
R McGhee, Legal & Property Services	1
N McLaren, Planning	1
G Leitch, Transportation and Roads	1
File Copy	1

**TOTAL 32**

**AGENDAS AND ALL NON-CONFIDENTIAL PAPERS TO:**

Community Councils 10

**TOTAL 42**