

## **SUPPLEMENTARY PLANNING STATEMENT**

### **Application 21/01460/MSC: Phase 3 Residential Development on Land North of Johnston Road and East of Lochend Road, Gartcosh**

#### **Revised Section 42 application for variation of Condition 16 attached to planning permission in principle 13/01958/PPP**

#### **Introduction**

An application for a third phase of housing on the above noted site was submitted to North Lanarkshire Council (NLC) on 15 September 2021 (ref: 21/01460/MSC). It accompanied a similar application for Phase 2 housing (ref: 21/01459/MSC) and a Section 42 application (ref: 21/01461/S42) seeking a variation of Conditions 3d), 3f) and 16 attached to the original PPP for housing on the wider site.

During the processing of the applications the council requested that the original Section 42 application should be amended to allow determination of the Phase 2 housing application ahead of the Phase 3 application. This was duly done by deleting reference to PPP Condition 16 from application 21/01461/S42.

As agreed with the council, the applicant has now submitted a new, separate Section 42 application addressing PPP Condition 16. This brief statement explains the variation sought and the relationship between this and the proposals contained in Phase 3 application 21/01460/MSC.

#### **The Proposed Phase 3 Residential Development**

Planning permission in principle 13/01958/PPP for residential development of up to 450 units to the north and south of Johnston Road, Gartcosh was granted in August 2016. An MSC approval for the first phase of this housing to the north of Johnston Road (155 units) was issued to Bellway Homes in March 2017 (16/02234/MSC) and this has now been implemented.

Current application 21/01459/MSC seeks approval for the details of Phase 2 (107 units) to the north of Phase 1 along with a new, secondary access and link road to/from Lochend Road. It is due to be determined at committee on 28 March 2022 along with amended Section 42 application 21/01461/S42.

Remaining application 21/01460/MSC seeks approval for a Phase 3 development (76 units) on the northern part of the land between Phase 2 and Lochend Road. This involves land that the council had originally identified as a 'no build area' in its development framework for the Gartcosh/Glenboig CGA. Condition 16 attached to 13/01958/PPP did not allow for housing on this part of the wider Johnston Road site.

In pre-application discussions with the council it was agreed that separate MSC applications for Phase 2 and Phase 3 could be submitted but that a Section 42 application would be required in order to address the aspects of the proposals that would conflict with conditions attached to the PPP.

In email correspondence it was confirmed that the conditions concerned were Condition 3(d), 3(f) and 16 – the first two refer to a roundabout at Lochend Road and are relevant to the Phase 2 application only. The latter only applies to the proposed Phase 3 housing. As currently worded, PPP Condition 16 doesn't allow for any housing on the Phase 3 site and, as a result, a variation to the wording is required before the council can consider approval of application 21/01460/MSC.

### The New Section 42 Application

The Planning Statement submitted along with the Phase 2, Phase 3 and original Section 42 applications in September 2021 made clear the applicants' view that the Phase 2 and Phase 3 proposals should be viewed as linked and that therefore the two MSC applications should be determined together along with the Section 42 application. As a result, and in line with earlier council advice, the latter as submitted in September 2021 sought to vary all three of the identified PPP conditions.

As noted above, application 21/01461/S42 has since been amended with deletion of reference to PPP Condition 16. The purpose of the new Section 42 application is to seek approval for the same amendment to the wording of PPP Condition 16 which would allow an element of housing on the Phase 3 site. The reasoned justification for this change remains as set out in the original Planning Statement of September 2021.

The applicants' willingness to delete reference to PPP Condition 16 from the original Section 42 application was based on the agreement of the planning case officer that (a) the new Section 42 application will be validated and processed as soon as possible and that (b) determination of the current Phase 3 application will be held until it can be considered along with the proposed variation of PPP Condition 16 under the new Section 42 application.

At the time of the PPP, the land north of Johnston Road and east of Lochend Road was identified as 'Site 1'. Condition 16 states that the PPP *'does not allow for any housing on.....the western portion of Site 1'*. It is important to note here what it doesn't say. It doesn't say that no housing will be permitted on any part of 'Site 1', merely that permission 13/01958/PPP doesn't allow for it' i.e. doesn't make provision for it.

The current Phase 3 housing application involves land within 'Site 1'. In order to remove any perceived conflict between the Phase 3 MSC proposals and the PPP, the new Section 42 application proposes the following variation to the wording of PPP Condition 16:

Condition	Existing Wording	Proposed Wording
Condition 16 attached to 13/01958/PPP	That for the avoidance of doubt, this permission does not allow for any housing development on Site 2 (ie the site to the east of the M73) or the western portion of Site 1 (as outlined	That for the avoidance of doubt, this permission does not allow for any housing development on Site 2 (ie the site to the east of the M73) as outlined within the indicative

	within the indicative masterplan and as shown on Page 63 of the Glenboig/Gartcosh Community Strategic Development Framework document)	masterplan and as shown on Page 60 of the Glenboig/Gartcosh Community Strategic Development Framework document. Any development on the western portion of Site 1 should incorporate a substantial area of open space that ensures the separation of Gartcosh and Mount Ellen.
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It is important to note here that the applicants accept the 'No Build Area' on Site 2 (to the east of the M73) – the only concern relates to the 'No Build Area' on Site 1, east of Lochend Road. The proposed rewording of Condition 16 still precludes housing on any part of Site 2.

It is also important to note the context within which the Phase 3 proposals have been brought forward. Bellway Phases 1 and 2 have demonstrated that the unit numbers achievable across the wider PPP site fall well below the permitted total of up to 450. This reduced capacity added to the cost involved in providing the new access and link road to/from Lochend Road has a significantly impact on the viability of the entire development. The introduction of a limited amount of housing on part of Site 1 helps to address part of the shortfall.

### **Assessment of the New Section 42 Application and the Phase 3 Proposals**

Section 25 of the Town & Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 (the Act) requires that planning applications should be determined in accordance with the prevailing development plan unless material considerations indicate otherwise.

Both the adopted Local Plan and the soon be to adopted LDP identify the Phase 3 site as lying within the General Urban Area and within the CGA. There is nothing in either document to indicate that housing cannot take place on the Phase 3 land east of Lochend Road and the Proposal Map shows it allocated for housing as part of the wider CGA with no note of restrictions. It is clear therefore that the Phase 3 housing proposals accord with the development plan.

In terms of potential 'material considerations', the council has referred to its supplementary planning guidance regarding the CGA - the Concept Statement (CS) and the Strategic Development Framework (SDF). The latter refers to a 'no build area' on the western part of Site 1 but the former only requires retention of some open space between Gartcosh and Mount Ellen – the combined Phase 2 and 3 proposals achieve this.

Both documents are now well out of date and therefore little weight can be attached to them. Both also pre-date the publication on the Scottish Planning Policy (SPP) and, as a result, the provisions of the SPP must be given more weight than the CS or the SDF. The SPP contains no reference to the prevention of 'coalescence' being a relevant factor for consideration in the planning system. Again this suggests that little weight can be attached to the 'no build area' provisions within the SDF. The Phase 3 application can therefore be seen to accord not just with the development plan but also with the CS (given the retention of a substantial area of open space on Site 1) and the SPP.

In considering whether any weight can be attached to the SDF 'no build area' at Lochend Road and its relevance to the current Phase 3 MSC proposals, it is important to consider whether the SDF restrictions are reasonable and necessary. Paragraph 194 of SPP confirms that the planning system should concern itself about the maintenance and enhancement of '*distinctive landscape character*'. This is clearly quite different from the broader SDF requirement to '*protect landscape character*'. The SPP gives more emphasis to the need to justify why landscape character is distinctive enough to require protection or enhancement.

In this respect, the SDF contains no evidence regarding the landscape character around Johnston Road/Lochend Road and no reason why it might be considered in any way 'distinctive'. In contrast, the LVI submitted along with the current applications in September 2021 contains a detailed analysis of the sites, the surroundings and the wider area.

The LVI quotes NatureScot landscape character research which describes the wider area as being of '*damaged and fragmented character*'. As such it is dubious whether it could be described as 'distinctive'. At Paragraph 6.1, the LVI notes that the Phase 2 housing proposals relate to Gartcosh while the Phase 3 proposals relate more clearly to Mount Ellen. The proposal to retain around 40% of the SDF 'no build area' as open space ensures that a green gap is retained between the two settlements. The LVI confirms that this '*would present the perception of separation*' between the two settlements, thus achieving the overall aim of the Concept Statement and the SDF, if not the precise provisions regarding the Lochend Road 'No Build Area'.

LVI drawing L6 and Paragraph 6.12 demonstrate the manner in which the proposed substantial open space at the western end of Phase 2 contributes towards the wider green network with a significant, clear link between the former golf course to the north east, Johnston Loch to the west and the wider Seven Lochs project area beyond.

In relation to visual impact, the LVI concludes that the impact of the proposed Phase 3 development will generally be low due to the topography and peripheral tree cover. Both factors are seen as contributing to the perception of a clear, green separation between Gartcosh and Mount Ellen following the development of both Phase 2 and Phase 3 housing.

Given all of the above, it is clear from the LVI that the existing landscape character cannot be described as 'distinctive' and that the proposed retention of 40% of the Lochend Road site as open space can be seen to address the aims and objectives of the SDF. The blanket 'No Build Area' east of Lochend Road can be seen to be neither reasonable nor necessary in such circumstances.

In considering the proposed departure from the terms of the SDF to accommodate the proposed Phase 3 housing, it is relevant to note that the council has already permitted significant departures in approving housing proposals south of Johnston Loch and at Heathfield Farm to the west. On the land south of Johnston Loch the Concept Statement showed a proposal 'No Build Area' but this was reduced to a requirement for a 30m buffer

around the loch in the SDF. PPP was granted on this basis (Ref: 14/01849/PPP) but in approving the subsequent MSC the council accepted a reduction of the buffer to less than 20m (Ref: 16/01850/MSC).

More recently, the council has approved proposals for housing at Heathfield Farm (Ref: 19/0274/PPP). This decision was taken despite a consultation response dated 27 March 2019 from the Environmental Design and Engineering section which stated:

*'this development will have a significantly adverse visual effect on the local landscape' and that 'the settlements of Gartcosh and Mount Ellen will effectively coalesce'.*

These decisions demonstrate that it is possible for planning permission to be granted for development even though they might appear to run counter to provisions within the SDF. As the council accepts that the Heathfield Farm development will lead to coalescence of Gartcosh and Mount Ellen it would appear unreasonable for the council to continue to insist on the full 6 hectare 'No Build Area' to the east of Lochend Road in order to avoid coalescence. The principle of allowing development with a green corridor through the area has been accepted at Heathfield Farm and there is no sound basis for opposing a similar solution on the land to the east of Lochend Road. As already noted, the submitted LVI confirms that the proposed design approach will result in an albeit narrower, but clear, green separation between the settlements.

Returning to the Johnston Road PPP, it is clear from Condition 2 that the submitted indicative masterplan is to be used as a guide to the future development, not a prescriptive limit on the extent and location of housing that will be approved. As the Phase 3 proposals can be seen to achieve the aims and objectives of SDF guidance there is therefore no impediment to the variation of PPP Condition 16 to allow for the Phase 3 housing as proposed.

As already noted, Condition 16 doesn't preclude any housing development on the Phase 3 site. It merely states that the permission *'does not allow for housing development'* on the site. Varying the condition as proposed would therefore allow approval of the Phase 3 proposals without conflicting with the PPP. As already set out above, approval of the Phase 3 proposals would accord with the development plan as well so there should be no issue in the council doing this. Indeed, there is a clear presumption in favour of the new Section 42 application and the Phase 3 application both being granted.

## **Conclusion**

The applicants have submitted soundly based proposals for Phase 3 housing in line with PPP 13/01958/PPP and have provided a reasoned justification for the parallel required variation of PPP Condition 16. The proposals can be seen to accord with the development plan and no compelling material considerations indicate otherwise. Both application should therefore be granted.

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