

T: 0131 244 7589
E: planning.decisions@gov.scot

Lynsey Reid
Burgess Salmon

By email only to:
lynsey.reid@burgess-salmon.com

Our ref: PPA-390-2060-1

21 July 2022

Dear Lynsey Reid

DECISION NOTICE

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 ('the Act') PLANNING APPEAL: Residential development for up to 70 dwellings and cemetery with associated engineering works and landscaping, on land 160 metres south of Broadgate House, Campsie Road, Strathblane G63 9AB ('the proposed development')

1. This letter contains Scottish Ministers' decision on the planning appeal (ref: PPA-390-2060-1) by Gladman Developments Ltd against the decision by Stirling Council to refuse planning permission in principle for the above-mentioned development.
2. The application for planning permission (ref: 17/00434/PP) was made to the planning authority, Stirling Council, and refused by the authority on 7 November 2017 and is now the subject of an appeal to the Scottish Ministers. In exercise of the powers under paragraph 3(1) of Schedule 4 to the Act, Scottish Ministers directed, on 12 September 2019, that they would determine the appeal themselves.
3. The appeal was considered by means of procedure notices and unaccompanied site inspections which took place on 2 March 2020 and 14 October 2020 by Robert Seaton, a Reporter appointed by Scottish Ministers for that purpose. The final updated report with the Reporter's recommendation was issued to Scottish Ministers on 7 October 2021. A copy of the Reporter's report ('the Report') is enclosed. Further details of the history and consideration of the case are provided in the Report.

4. Following the submission of the reporter's report in October 2021, Stirling Council published its Housing Land Audit 2021 ('2021 HLA'). The appellant and the planning authority were each invited (by way of a procedure notice dated 1 April 2022) to comment on how the 2021 HLA affected their case in the appeal. The appellant provided a response and the council then provided a further submission, to which the appellant responded.

5. On 9 May 2022, Ministers received uninvited comments from Strathblane Community Council in relation to the appellant's response to the April 2022 procedure notice. Ministers have not taken those comments into account in their reasoning and decision on this appeal.

Reporter's Recommendation and Scottish Ministers' Decision

6. The Reporter has recommended that the appeal be dismissed and permission refused. Scottish Ministers have carefully considered all the evidence presented and the Reporter's conclusions and recommendations. For the reasons given below, Scottish Ministers agree with the Reporter's recommendation and refuse planning permission in principle for the Proposed Development. All references to paragraph numbers, unless otherwise stated, are to those in the Report.

The Proposals and Site

7. The appeal is in respect of an application for planning permission in principle for a development of up to 70 houses and a cemetery with associated engineering works and landscaping. The site is adjacent to the village of Strathblane and is a greenfield site extending to around 11 hectares. Further details of the proposal and the site are provided in paragraphs 1.1 to 1.11 of the Report.

The Reporters' Report

8. Chapter 1 of the Report includes a description of the proposed development and site; the planning history; and summaries of consultation responses, representations, the consideration of the case by Stirling Council, and the grounds of appeal. Chapter 2 summarises the policy context and material considerations and the cases for the appellant and council, and includes the Reporter's conclusions on the application of the 'tilted balance' and the main matters for consideration in this appeal.

9. Chapter 3 is on the issue of housing land supply. Chapter 4 deals with the question of compliance with the spatial strategy of the Local Development Plan. Green belt and landscape and visual effects are discussed in Chapter 5. The topics of transport and accessibility; historic environment; flood risk and drainage; the cemetery; socio-economic benefits; biodiversity; and other matters are covered in the subsequent Chapters 6-12. The Reporter's overall conclusions and recommendations are contained in Chapter 14.

Legal and policy context and determining issues

10. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires Ministers to determine planning appeals in accordance with the development plan

unless material considerations indicate otherwise. In this case, the development plan comprises the Stirling Local Development Plan 2018 ('the LDP') and associated supplementary guidance. Ministers agree with the Reporter's summary (in paragraphs 2.3-2.21) of relevant provisions of the development plan.

11. Ministers agree with the Reporter's list of main matters that required to be considered in this appeal (paragraph 2.77). These matters include whether there is a shortfall in the existing five-year effective-housing-land supply, and if so, roughly how great a shortfall there is., Calculation of the effective housing land supply is not an exact science and there a different approaches leading to significantly different results. Using different methodologies the Council argue that there is a surplus of supply and the appellant argues that there is a shortfall. Ministers have not formed a concluded view as to the existence or level of any shortfall but rather have approached their decision on the assumption that there is a shortfall of around 1,621 units (or around a third) as discussed below. Given their conclusions based on such an assumed level of shortfall it has not been necessary to consider whether this represents the actual position with regard to the 5 year effective housing land supply. The short-hand term 'five-year target' used below is intended to mean how much effective land is required for there to be a five-year effective housing land supply.

Housing land supply

12. The 2021 HLA indicates that there is an effective housing land supply of 2,830 units, and that the five-year target is 2,675. In their response to the April 2022 procedure notice, the appellant notes that the 2021 HLA relies on the average method to calculate the adequacy of the housing land supply, which takes no account of past housing completions. The appellant explains why they disagree with the use of that method, and why they consider that the 'compound/residual method', which takes past completions into account, is the appropriate approach to take in assessing the adequacy of housing land supply. The appellant also highlights that many of the concerns with the 2020 HLA, as set out in their earlier submissions, have not been addressed in the 2021 HLA. Those concerns include issues (initially set out by the appellant in early 2020) with seven sites included in the 2019 HLA, but disputed at that time by Homes for Scotland. They also include concerns that the audit's programming of 35 units per year from small sites, the programming of certain large sites; and the forecasted completions in the 2021 HLA, are all overly optimistic.

13. The appellant has provided a table detailing their calculation of the Council's five year effective housing supply (and the five-year target) using the compound/residual approach. That table has not been challenged by the Council. The table indicates a five-year target of 4,295 and a 5 year effective housing land supply of 2,830 resulting in a shortfall of 1,465 units, and a supply of 3.29 years. However, this is based on the Council's projected completions figures, and the appellant states that given their concerns (summarised above), the position is likely to be worse, i.e. the shortfall is likely to be larger.

14. As discussed in paragraphs 3.77 to 3.120 of the report, the Reporter considered the alleged inaccuracies in the 2019 and 2020 housing land audits. He also confirmed that whilst Homes for Scotland (HFS) disputed the effectiveness of seven sites included by the council in the 2019 audit, it had no outstanding dispute in

respect of the 2020 audit. Ministers note that it is confirmed within the 2021 HLA that a meeting took place between council officers and HFS and the programming of all sites was agreed. Ministers agree with the Reporter that (paragraph 3.78) the process for carrying out a housing land audit cannot be replicated by him (or indeed Ministers) in the context of a considering a planning appeal. In determining this appeal, Ministers should not be taken to have accepted or agreed with all of the Reporter's deductions from the audited housing supply, nor the resultant figure he calculated as representing the effective housing land supply at the 2020 audit date (paragraphs 3.83 – 3.120).

15. With regard to the seven sites included within the 2019 audit and disputed at that time by HFS, the appellant notes that two of the sites (SC112/H088 – KH Parsons Workshop, Balforn and SC267/H152 – South of Fisher Place, Buchlyvie) have not been included in the council's audited five year effective housing land supply within the 2021 HLA. The other five sites remain in the audited supply in the 2021 HLA and the appellant has explained why they consider those sites should not be regarded as effective.

16. SC215/H083 – Depot Site, Balforn: The appellant argues that for the site to be used as a housing site, challenging amenity issues exist – an existing household waste recycling centre on the site is safeguarded; there is no current permission; and the Council has given no indication of developer interest. Ministers accept the Reporter's findings in paragraphs 3.86 to 3.89 in relation to this site. Ministers consider that there is no reason, based on the matters raised by the appellant or the position of HFS in 2019, since reversed, to exclude the site from the effective supply.

17. SC268/H153 – South of A81, Strathblane and Blanefield: The appellant notes that planning permission has been granted for this site, but also sets out that there are known physical constraints on the site and that it is not clear from the 2021 HLA whether the site is under construction. Ministers accept and agree with the Reporter's findings (detailed in paragraphs 3.91 and 3.92) in relation to the site, and consider that it is reasonable for the 2021 HLA to identify the site as effective, producing 11 houses reflecting the planning permission now granted.

18. SC041/H072 – Touchill Farm, Plean: The appellant understands the site was marketed in 2014 and 2018, but that it is being constrained by being under multiple ownership, with not all owners willing to sell. The appellant also states that it is unclear whether there is an extant planning permission for the site. Ministers consider that even if there is no extant planning permission for residential development on the site, this does not mean the site is not effective. Ministers accept and agree with the Reporter's findings (detailed in paragraph 3.93) in relation to the site including that ownership does not represent a constraint, and consider that it is reasonable for the 2021 HLA to identify the site as effective.

19. SC212/H077 – East Fallin, Fallin: The appellant understands that an application for planning permission in principle has been approved subject to conclusion of a Section 75 agreement, but that currently there is no planning permission for residential development of the site. Ministers agree with the Reporter that the fact that there is not currently planning permission or a developer attached to the site does not mean the site is not marketable. Ministers accept and agree with

the Reporter's findings (detailed in paragraph 3.95) in relation to the site, and consider that it is reasonable for the 2021 HLA to identify the site as effective.

20. SC201A/H052 – Former Royal Infirmary Site, Stirling: The 2020 HLA estimated the site to contribute 10 units to the five year effective supply. The Reporter explains in paragraph 3.94 that he did not consider the site was demonstrated to be effective. He therefore deducted 10 units from the 2020 audited housing land supply. The 2021 HLA estimates the site would produce 41 units in the five year effective supply, so if the Reporter's findings and deduction in relation to this site are applied to the 2021 HLA, 41 units would need to be deducted from the 2021 audited supply.

21. The appellant notes that the HLA 2021 continues to rely on programming over the next five years of 35 units per year for small sites and windfall sites. The appellant argues that the council has consistently overestimated this element of housing delivery. In its submissions following the April 2022 procedure notice, the appellant did not suggest a replacement for the 35 units per year assumption. However, in its response to the second procedure notice, the appellant suggested that an annual projection for small sites and windfall sites should be 20 completions per year rather than 35 (paragraph 3.102). As stated in paragraph 3.102, the 2016 - 2019 audits show an average of 21.5 completions on small sites per year. Ministers therefore share the Reporter's view that the appellant's previous suggestion of an assumption of 20 completions a year on small sites and as-yet-unidentified windfall sites is reasonably conservative. As a consequence, the Reporter considered that the total for the five year effective housing land supply should be reduced by 75 (a deduction of 15 per year over five years). If this finding and equivalent deduction is applied to the 2021 HLA, the same deduction (of 75) would be made from the 2021 audited supply, given the above findings and as the 2021 HLA shows completions on small sites alone of 19 in 2021.

22. The appellant notes that its concerns regarding the programming of two strategic sites (SC074/H057 – Major Growth Area, Durieshill, and SC252/H069 – East Plean, Plean) in the 2019 HLA have not been addressed by the council in the 2021 HLA.

23. SC074/H057 – Major Growth Area, Durieshill: The appellant argues that given there is not yet any planning permission for the site (in the context of a draft legal agreement that has failed to progress over the last 12 months), the ability for this site to deliver as programmed should be treated with a very high degree of caution. Ministers agree with the Reporter's findings (paragraph 3.106 – 3.110) in relation to this site. Ministers consider that the programming for the site in the 2021 HLA (including that the first houses on the site would be completed in 2023/24) is not overly optimistic.

24. SC252/H069 – East Plean, Plean: The appellant notes that the site has a total capacity of 500 units, and that an application for planning permission in principle is shown as pending determination on the council's web site. The appellant also notes that a notice of intention was issued in March 2022 in relation to an appeal regarding a proposal for 117 units on the western part of the wider site. The appellant argues that given there is currently no planning permission for the site, as well as the fact that the appeal proposal relates to only 117 units, the ability for this site to deliver as

programmed should be treated with caution. The programme within the 2020 HLA showed completion of the first houses on the site in 2021/22. The Reporter considered that it was cautious to assume that this programme would slip by one year, and therefore to deduct 60 units from the audited supply (paragraph 3.111). He considered the allowance of an additional year was likely to provide sufficient time for completion of the application process and a start on the site. Ministers note that the 2021 HLA indicates that the first houses on the site would be completed in 2023/24, representing a one year slippage from the programming shown in the 2020 HLA. If it is assumed that the programme again slips by a year, 40 units would be deducted from the audited supply shown in the 2021 HLA.

25. The appellant argues that the council's completion forecasts should be treated with a high degree of caution. However, Ministers share the Reporter's view (in paragraph 3.119) that subject to specific matters considered above, it is not appropriate, in the context of a single appeal, to set aside agreed programming in the HLA on the basis of a generalised allegation of over-optimism from the applicant.

26. Ministers agree with the Reporter that (paragraph 3.78) the process for carrying out a housing land audit cannot be replicated by him (or indeed Ministers) in the context of a considering a planning appeal. However, *if* the audited five year effective housing land supply (as programmed in the 2021 HLA) is reduced by 156 to reflect the deductions detailed in the paragraphs above to be consistent with the reporter's findings and deductions in relation to the 2020 HLA, this would result in an amended effective housing land supply figure of 2,674.

27. If the five year target is taken to be 2,675 units as stated in the 2021 HLA and if the HLA 2021 is correct that the effective housing land supply is 2,830 units, there is not a shortfall.

28. If the five year target is taken to be 2,675 units as stated in the 2021 HLA, an effective housing land supply figure of 2,674 (as noted in paragraph 26 above) falls short of that required by one unit. However, that five-year target was reached following some rounding up in the council's calculation. The reporter calculated the five-year target as being 2,674 using the average method as described in paragraphs 3.160-3.162. In that case, the amended effective housing land supply figure is 100% of that required, and there is not a shortfall.

29. If the appellant is correct that the five year target is 4,295 (as discussed in paragraph 13 above), and if the audited housing land supply figure of 2,830 units as stated in the 2021 HLA is correct, the housing land supply would be 66% of that required and there is a shortfall of 1,465 units.

30. If the appellant is correct that the five year target is 4,295, an effective housing land supply of 2,674 (as noted in paragraph 26 above) is 62% of that required and there is a shortfall of 1,621 units.

31. Ministers have not formed a concluded view as to the existence or level of any shortfall. However in order to keep the remainder of this decision letter as brief as possible, Ministers have reached the following conclusions, and determined this appeal, on the assumption that there is a shortfall in the effective housing land supply of 1,621 units or around a third.

Conclusions

32. Ministers agree with the Reporter's findings and conclusions in Chapter 4 regarding the question of compliance with the LDP's spatial strategy, including that the proposed development would not be 'small-scale expansion' of Strathblane as envisaged in the plan (paragraph 4.30).

33. Ministers agree with the Reporter's findings and conclusions set out in Chapter 5 regarding the effects on the green belt, on landscape character and on visual amenity. These include the conclusion (in paragraph 5.34) that the proposed development would have an adverse effect on the setting and character of Strathblane, even after the proposed woodland planting matured (as explained in the preceding paragraphs 5.22-5.33). In addition, that there would be adverse effects on several local views (paragraphs 5.36-5.40 and 5.42) and an overall moderate adverse effect on the green belt (paragraph 5.34). Ministers note that the appellant acknowledges the proposed development would have an adverse effect on the openness of the green belt (paragraph 5.41). Ministers agree with the Reporter that the proposed development is contrary to LDP Primary Policy 1 (placemaking) since it does not respect the green belt, and to the requirement in LDP Policy 1.5 that it should not undermine the green belt's core role and function by its effects.

34. In paragraph 6.21, the Reporter agrees with the council and the appellant that the proposed development would not be likely to have an adverse effect on the operation of the mini-roundabout that forms the junction of Campsie Road (A891) with Glasgow Road (A81), or any other part of the road network. Ministers agree with this conclusion. Ministers also agree with the Reporter that the proposed development would increase reliance on private car use in a way that is not sustainable (paragraph 6.32), which is an adverse effect of the proposed development. Ministers agree that the proposed development would not be an accessible development in a sustainable location and would not be located so as to reduce travel demand (paragraph 6.34). In addition, that transport represents a constraint of the proposed development both in terms of infrastructure and accessibility under LDP Primary Policy 2 (paragraph 6.35).

35. Ministers agree with the Reporter that overall, the proposed development would not preserve the setting of the Broadgate Mound which is a scheduled monument, but also that it would not have a *significantly* adverse effect on the integrity of the setting. The presumption against development in LDP policy 7.1(a) regarding scheduled monuments is therefore not triggered, and the proposed development is not contrary to paragraph 145 of Scottish Planning Policy (SPP). Ministers agree with the Reporter that given the mitigation proposed, the inconsistency with Primary Policy 7 on the historic environment is a minor matter that would not *by itself* result in refusal of permission (paragraph 7.18).

36. Ministers agree with the Reporter's findings and conclusions in Chapter 8 regarding flood risk and drainage, including that the proposed development is capable of being designed so that it does not materially increase the risk of flooding elsewhere, and complies with LDP Primary Policy 5 on flood risk management, and flooding policy in SPP.

37. Ministers agree with the Reporter's reasoning in Chapter 9 regarding the matter of land safeguarded in the LDP for a cemetery and the appellant's proposal to provide land elsewhere on the appeal site for a cemetery. Ministers agree that there is a lack of certainty that a cemetery could actually be provided at the safeguarded site or on the land proposed by the appellant. In view of the Reporter's conclusion in paragraph 9.13, Ministers give this matter very little weight in the determination of this appeal.

38. Ministers agree with the Reporter's reasoning in paragraphs 10.5-10.7 regarding socio-economic benefits of the proposed development. Ministers acknowledge that there would be a benefit in terms of the provision of affordable housing in Strathblane. In addition, if the provision of a new cemetery came to pass, this would represent a benefit. Ministers share the Reporter's view that as regards other socio-economic benefits, these would be at least equally likely to arise from a development that was in accord with the development plan's spatial strategy. However overall, the socio-economic benefits do weigh in favour of the proposed development.

39. For the reasons set out in Chapter 11 on biodiversity, Ministers agree with the Reporter that the proposed development's effect on biodiversity does not represent a constraint, and that the proposed measures to improve biodiversity weigh in favour of the proposed development.

40. Ministers agree with the Reporter's findings and conclusions in Chapter 12 regarding the matters of groundwater/licensing for dewatering; the capacity of sewerage infrastructure, schools and other facilities; and the quality of pre-application consultation. None of these matters weigh against the proposed development.

41. Ministers agree with the Reporter's findings as set out in paragraph 14.1 that the proposed development is contrary to the LDP's Policy 2.10 (on housing in the countryside), Primary Policy 1 (on placemaking), Policy 3.1 and Primary Policies 4, 7 and 9 (on addressing travel demands of new development; greenhouse gas reduction; the historic environment and managing landscape change respectively).

42. Ministers agree with the Reporter that the proposed development should be considered further in terms of Primary Policy 2 and Policy 2.1 of the LDP. The Reporter considers whether the proposed development is consistent with the spatial strategy and vision of the LDP (as expected in Policy 2.1) in paragraphs 14.7-14.12 and 14.13-14.15 respectively. Ministers agree with his findings on this matter, including that the proposed development would not be consistent with the strategy and not wholly consistent with the vision (paragraphs 14.12 and 14.14 respectively).

43. Ministers agree with the Reporter's assessment of the proposed development against the LDP's sustainable development criteria (paragraph 14.16), including that it is contrary in particular to criterion 1, since it would be likely to have an adverse impact on the settlement character, and criterion 3 since it would not reduce the need to travel or reliance on the private car. Ministers agree that the proposed development does not accord overall with the sustainable development criteria.

44. Ministers agree with the Reporter's findings and conclusions regarding compliance with the Overarching Policy of the LDP (paragraphs 14.17-14.20) including that the proposed development does not wholly meet the criteria of, and in that respect would be contrary to, that policy. Ministers also agree with the Reporter that there is a tension within the policy given the community need to address an (assumed) shortfall in the required five year effective housing land supply.

45. Ministers agree with the Reporter's conclusion that Policy 2.1 of the LDP does not favour the proposed development and that the proposed development does not accord with the development plan, for the reasons set out in paragraphs 14.22 to 14.26 and 14.28.

46. Ministers agree with the Reporter's assessment of the proposed development in relation to the sustainability principles of SPP paragraph 29 and in relation to paragraphs 194, 202, 76 and 203 of SPP, as set out in paragraphs 14.32 to 14.37 of the Report.

47. Ministers agree with the Reporter's findings and conclusions in respect of the adverse effects of the proposed development. Even assuming for the purposes of this decision that there is a shortfall in the effective housing land supply of around a third (as discussed in paragraph 31 above), Ministers agree with the Reporter that (paragraph 14.38) the adverse effects of the proposed development would significantly and demonstrably outweigh its benefits. This is notwithstanding a steep tilt on the balance in favour of the proposed development, set by an assumed shortfall of around a third and the potential benefit of the proposed development in helping to address the assumed shortfall. Ministers also agree with the Reporter that the proposed development would not be sustainable overall and that it is not supported by SPP.

48. Ministers conclude that the proposed development does not accord with the development plan, and the material considerations do not indicate it should nonetheless be granted permission.

Formal Decision

49. Accordingly, for the reasons set out in the Report and as summarised above, Scottish Ministers hereby dismiss the appeal and refuse planning permission in principle for the proposed development.

50. This decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

51. A copy of this letter and the Reporter's report will be sent to the representatives of the planning authority and Strathblane Community Council. Those parties who lodged representations will also be informed of the decision.

Yours sincerely

Elaine Ramsay

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Planning Decisions