

Argyll and Bute Council
Development & Economic Growth

Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 24/00564/PP
Planning hierarchy: Local
Applicant: Fyne Homes
Development: Erection of Eight Affordable Dwellinghouses and Formation of Vehicular Accesses
Site Address: Vacant Land at Junction of Ballochgoy Road and Blain Terrace, Rothesay, Isle of Bute

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
 Committee - Local Government Scotland Act 1973
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(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of eight affordable dwellinghouses
- Formation of vehicular accesses and parking spaces
- Formation of retaining walls in curtilages of dwellinghouses
- Installation of surface water drainage system
- Formation of refuse and recycling storage areas in curtilages of dwellinghouses

(ii) Other specified operations

- Connection to public water main and public foul drainage system
 - Landscaping
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be **granted** subject to the conditions, reasons and informative notes set out below.

(C) CONSULTATIONS:

Scottish Water (letter dated 17th April 2024)

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced.

There is currently sufficient capacity in the Dhu Loch Water Treatment Works to service the development. However, further investigations may require to be carried out once a formal application has been submitted.

There is currently sufficient capacity for a foul only connection in the Rothesay Waste Water Treatment Works. However, further investigations may be required to be carried out once a formal application has been submitted.

Area Roads Engineer (reports dated 23rd July 2024 and 30th August 2024)

There was an initial recommendation of deferral in order for two issues to be resolved – the close proximity to the junction of Ballochgoy Road and Blain Terrace of the parking spaces proposed for the dwelling at Plot 8 and the provision of a full length dropped footway adjacent to the off-street parking rather than repeated transitions.

Amended drawings have been submitted that satisfactorily address the above and the Roads Engineer has confirmed that he now has no objections to the proposal subject to conditions regarding the provision of adequate visibility splays from each driveway and the prevention of surface water flowing onto the public road corridor.

JBA Consulting (report dated 27th August 2024)

The site is located outwith all indicative limits of flooding from a 1:200 year plus climate change annual probability event as per the SEPA Future Flood Maps.

The supplied drainage strategy informs that surface water will be collected at each of the proposed dwellings, attenuated and then discharged into the combined Scottish Water sewer close to the site. It is unlikely that Scottish Water will accept this discharge but, at this time, a formal definitive response has not yet been received.

It is recommended that no development should take place until discharge into the public system is authorised and written confirmation provided to the Planning Authority.

The drainage document informs that discharge into the sewer is to be restricted to 0.35 litres per second and this rate is considered to be acceptable.

(D) HISTORY:

Planning Permission (ref: 05/00669/DET) granted on 8th September 2005 for the erection of 34 dwellinghouses on land to the north and west of the subject site. These dwellinghouses have been completed.

Outline Planning Permissions (refs: 06/01181/OUT; 06/01182/OUT; 06/01183/OUT; 06/01184/OUT; 06/01186/OUT; and 06/01187/OUT) were granted on 28th July 2006 for the erection of a dwellinghouse on each of six individual plots on the land that is the subject of the current application. These permissions expired on 28th July 2009 as no applications for the approval of reserved matters had been submitted.

Planning Permissions in Principle (refs: 16/02361/PPP; 16/02366/PPP; 16/02367/PPP; 16/02368/PPP; 16/02369/PPP; and 16/02370/PPP) were granted on 3rd November 2016 for the erection of a dwellinghouse on each of six individual plots on the land that is the subject of the current application. These permissions expired on 3rd November 2019 as no approval for the matters specified in the conditions attached to the permissions had been obtained.

(E) PUBLICITY:

Subject of Neighbour Notification (closing date 1st May 2024) and advertised under Regulation 20 (closing date: 10th May 2024).

(F) REPRESENTATIONS:

A petition **objecting** to the application was received on 29th April 2024 and it contained the following sixteen signatories:

Karen Banbury, 1 Ballochgoy Terrace, Rothesay, Isle of Bute
Edward Glass, 1 Ballochgoy Terrace, Rothesay, Isle of Bute
Christine Ross, 2 Ballochgoy Terrace, Rothesay, Isle of Bute
David Ross, 2 Ballochgoy Terrace, Rothesay, Isle of Bute
Francis Kemble, 3 Ballochgoy Terrace, Rothesay, Isle of Bute
Carol Kemble, 3 Ballochgoy Terrace, Rothesay, Isle of Bute
Isobel Rich, 4 Ballochgoy Terrace, Rothesay, Isle of Bute
Robert Rich, 4 Ballochgoy Terrace, Rothesay, Isle of Bute
Donna Devlin, 4 Blain Terrace, Rothesay, Isle of Bute
Peter Morrison, The Bungalow, Ballochgoy Road, Rothesay, Isle of Bute
Fiona McMillan, The Bungalow, Ballochgoy Road, Rothesay, Isle of Bute
Dmitry Ivanov (Address Not Provided)
James Gorman, Lilyoak House, 7 Lilyoak Terrace, Rothesay, Isle of Bute
A McQuilkan, 7 Prospect Terrace, Rothesay, Isle of Bute
C McGinty, 3/1 Havelock Terrace, Rothesay, Isle of Bute
K Queen, 34 Ballochgoy Road, Rothesay, Isle of Bute

The points raised can be summarised as follows:

- i. It is stated that the map/plan indicates that the proposal relates to the erection of six dwellinghouses. However, the application lists a proposed development of eight units and an access road but there is no site plan showing the layout and/or designated parking areas.

Comment: *The 'map/plan' that is mentioned is likely to be the one that is included in the letter to neighbouring properties, which is not intended to provide full details of the layout of the proposed development. The letter does, however, provide information and guidance on how to view the plans on the Council's website and, by following the advice, access to all of the drawings and plans is available.*

- ii. Whilst most residents on Bute welcome the idea of affordable housing, it is contended that the consensus of opinion is that it would be infinitely preferable for the numerous structures on the island that are in poor repair (especially in Rothesay) to be renovated. This would not only provide housing for a considerable number of people but would enhance the aesthetic appeal of Bute thereby making the island more attractive for residents and visitors.

It is considered that funds should be directed to procurement and renovation to provide affordable homes at a lower environmental and fiscal cost. There is the added factor of the recent introduction of a tax on second homes in Scotland, which will result in the number of available rental homes increasing in number.

Comment: *In their e-mail dated 4th June 2024, the agent has pointed out that the suggestion of renovating "the numerous structures on the island" whose ownership is unknown is not something the applicant, Fyne Homes, requires to consider as part of a development for new affordable housing.*

They contend that the proposals will deliver high quality family homes for social rent which reflects local housing need and, in addition, would redevelop a brownfield site in an accessible location. Furthermore, the new homes are proposed to be delivered as modular construction which, the agent explains, provides environmental advantages over traditional forms of construction e.g. reduced construction waste and improved quality over the building lifespan.

- iii. The Hillhouse Road/Westlands Road route is the only means by which the residential area of Ballochgoy and the municipal refuse and recycling site further to the west can be accessed. It is stated that this route is narrow and it is also contended that it is in a significantly poor state of repair and has a very dangerous, tight and blind intersection where it meets Ballochgoy Road.

It is also mentioned that there is congestion caused by a very narrow road just below the proposed site near the bowling club and where there is a bus stop.

Comment: *The application site is located within an established residential area that is served by publicly adopted roads. In his reports on the proposal, no concerns have been raised by the Area Roads Engineer in respect of the capability of the surrounding road network to accommodate the increase in traffic associated with the erection of the eight dwellinghouses.*

- iv. It is stated that there is already a problem with access to Ballochgoy Road and that parking is impossible with a long stretch of single lane road immediately below the site of the proposed development and where a bus stop is situated near the Bowling Club.

It is pointed out that the amount of parking presently available for existing residents is insufficient and this is before taking into account the demand created by vehicles associated with visitors, carers and nursing staff.

Comment: *The proposal involves the provision of in-curtilage parking for each dwellinghouse and visitor parking that is in accordance with the standards set out in Policy 40 of the Argyll and Bute Local Development Plan 2.*

- v. There are several disabled residents with mobility scooters who already have a very difficult time negotiating the narrow pavement and, with the addition of works traffic, it would become impossible for them and also for the bus to safely use this stretch of road. This would cause extreme safety concerns to the elderly and the young residents/pedestrians who use this road.

It is stated that the principal roads (St Bride's Road and Ballochgoy Road) are too narrow and there are instances of vehicles parking on pavements. All residents (including mothers, children and mobility scooter users) often have to divert from the footway on to the road just below the site for the proposed development. During school holidays and bank holidays, the traffic almost doubles and damage has been done to vehicles. Concern is expressed that the possibility of personal injury is very high.

Comment: *As mentioned in response to Point (iii) above, no concerns have been raised by the Area Roads Engineer in respect of the capability of the surrounding road network to accommodate the increase in traffic associated with the erection of the eight dwellinghouses.*

The Area Roads Engineer has recommended there is a continuous dropped pavement which will be easier to use for those with mobility scooters and buggies as they pass the new houses and new driveways and in curtilage parking should prevent parking on the street so the pavement should be kept clear.

In terms of the situation during the construction period, please refer to the comments for Point (vi) below.

- vi. It is contended that construction traffic alone would create the most appalling carnage in the area and would add considerably to congestion and chaos for some time. It is stated that Hillhouse Road (the only route through which access to Ballochgoy is available) was closed for a period in December 2023 due to a water main issue and one of the objectors was unable to drive up the hill and was forced to walk to his house in the pouring rain. It is considered that adding to the burden on this hill would only make matters worse and there is a very real danger of injury.

Comment: *In their e-mail dated 4th June 2024, the agent has explained that the new homes are proposed to be volumetric modular construction, which means that approximately 90% of the work will be completed off-site before the units are delivered. This will greatly reduce construction traffic and the overall duration of the works and the contractor has also given the commitment to act as a good neighbour and provide regular communication.*

From a Planning perspective, and in the particular circumstances of this case, a condition is recommended requiring that a Construction

Management Plan is submitted to and approved in writing by the Planning Authority, which will seek to address issues such as construction traffic, site compound, storage areas, dust suppression, etc.

- vii. It is stated that the plot of land in question becomes flooded during heavy rainfall, which is semi-permanent during winter months. It is alleged that, during periods of heavy rain, the flow of water overwhelms the drains that are already installed as these are not equipped to deal with the outflow. The result is that the road becomes a torrent of water and it sometimes freezes.

Concern is expressed that erecting structures on the land would be an added burden that wouldn't alleviate the existing level of flooding. The application form states that the proposals do not make provision for the sustainable drainage of surface water at the site and this could very well be in breach of environmental legislation.

Comment: *In their e-mail dated 4th June 2024, the agent has stated that their engineers have reviewed SEPA flood maps and can confirm that the site is at no risk of pluvial or fluvial flooding. The proposals for the site also identify porous bay parking for each individual plot (an effective form of SuDS) whilst the drainage design features an orifice plate that would restrict the discharge rates of all flows meaning the existing system will not be overwhelmed.*

- viii. This is a community of many families although it lacks green space in which children can play safely with the result that they often use the pavement and roads, which is a potential hazard. With the requisite drainage measures in place, the site in question could provide a much needed playground for the existing families to use thus enhancing the safety and desirability of the area. The lack of designated playgrounds on Bute is a factor in families with children not being attracted to the island.

Comment: *In their e-mail dated 4th June 2024, the agent has stated that, in formulating the design of the proposals, much consideration has been given to ensure that garden spaces are usable for young families, despite the steep slope of the area. The existing area of open space adjacent to the site will not be detrimentally impacted by the proposals. In addition, the requirement to provide open space is only applicable to developments of 10 dwellings or more (Policy 68 – Housing Greenspace).*

A **representation** was received on 30th April 2024 from Mrs Julie Gilchrist on behalf of the committee and members of Rothesay Bowling Club, Ballochgoy Road, Rothesay, Isle of Bute.

The representation explains that Rothesay Bowling Club are happy to welcome new family homes to the area; however, it is stated that, during the last development, the works proved very detrimental to the daily life of the Club with members and guests being denied the ability to park near to the green. This led to a reduction in numbers coming to play at the Club and affected them financially.

While they acknowledge that no build can happen without affecting the local area, they have respectfully asked for consideration and reassurance that disruption would be as minimal as possible this time. They have explained that they cannot afford to lose members and guests (and their revenue) due to lack of parking should Prospect Terrace be closed off again. They have referred to a grassed area adjacent to the boundary fence of the grounds that Fyne Homes maintain and have asked

whether this could, perhaps, be repurposed for the provision of some parking spaces.

Comment: *In their e-mail dated 4th June 2024, the agent has confirmed that the new development will require access from Prospect Terrace; however, they will seek to minimise disruption and include Rothesay Bowling Club within their neighbour communication.*

They explain that the new homes are proposed to be volumetric modular construction, which means that approximately 90% of the work will be completed off-site before the units are delivered. This will greatly reduce construction traffic and the overall duration of the works and the contractor has also given the commitment to act as a good neighbour and provide regular communication.

As mentioned in the response to Point (vi) above, the preparation and agreement to a Construction Management Plan is included as one of the conditions of Planning Permission.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) Environmental Impact Assessment Report: Yes No

(ii) An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994: Yes No

(iii) A Design or Design/Access statement: Yes No

(iv) Sustainability Checklists (with reference to the requirements of LDP2 Policy 04)

TN06 Sustainability Checklist Yes No

TN07 Sustainable Buildings Checklist Yes No

(v) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc. Yes No

'Drainage, SUDS and Surface Water Management Plan' – Harley Haddow (November 2023)

(H) PLANNING OBLIGATIONS

Is a Section 75 obligation required: Yes No

- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** Yes No
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- (J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) **List of all Development Plan Policy considerations taken into account in assessment of the application.**

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 5 – Soils
NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings
NPF4 Policy 12 – Zero Waste
NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
NPF4 Policy 16 – Quality Homes
NPF4 Policy 17 – Rural Homes
NPF4 Policy 18 – Infrastructure First
NPF4 Policy 22 – Flood Risk and Water Management

Argyll and Bute Local Development Plan 2 (Adopted 2024)

Spatial and Settlement Strategy

Policy 01 – Settlement Areas
Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking
Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design – All Development

Connected Places

Policy 32 – Active Travel
Policy 33 – Public Transport
Policy 34 – Electric Vehicle Charging Points
Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
Policy 36 – New Private Accesses

Policy 39 – Construction Standards for Private Accesses
Policy 40 – Vehicle Parking Provision

Sustainable Communities

Policy 60 – Private Sewage Treatment Plans and Wastewater Drainage Systems
Policy 61 – Sustainable Urban Drainage Systems (SUDS)
Policy 62 – Drainage Impact Assessments
Policy 63 – Waste Related Development and Waste Management

Homes for People

Policy 66 – New Residential Development on Non-Allocated Housing Sites within Settlement Areas
Policy 67 – Provision of Housing to Meet Local Needs Including Affordable Housing

High Quality Environment

Policy 71 – Development Impact on Local Landscape Area (LLA)
Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 79 – Protection of Soil and Peat Resources

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.

Third Party Representations
Consultee Responses
Planning History
Argyll and Bute Sustainable Design Guidance 2006
Argyll and Bute Technical Note on Biodiversity (2017)
TN06 Sustainability Technical Note and Checklist (2023)
TN07 Sustainable Buildings Technical Note and Checklist (2023)
Argyll and Bute Housing Needs and Demand Assessment
Argyll and Bute Housing Emergency Statement

(K) Is the development a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes No

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes No

(M) Does the Council have an interest in the site: Yes No

(N) Requirement for a pre-determination hearing: Yes No

In deciding whether to hold a discretionary hearing, Members should consider the following:

- How up to date the Development Plan is; the relevance of the policies to the proposed development; and whether the comments are on Development Plan policy grounds that have recently been considered through the Development Plan process
- The degree of local interest and controversy on material considerations, together with the relative size of community affected, set against the relative number of representations and their provenance

At the time of writing, a sixteen-signature petition objecting to the application has been submitted and a representation has also been received, which neither advances support nor expresses objection.

The determining factors in the assessment of the application are whether the proposed housing development is consistent with the provisions of the adopted National Planning Framework 4 and Local Development Plan 2 and whether the issues introduced by third parties raise material considerations of sufficient significance to withhold Planning Permission.

In this instance, the proposal is within the 'Main Town' of Rothesay area on land that has relatively recently been the subject of Planning Permissions in Principle for residential development; the siting, layout and design of the development are considered to be appropriate; and there are no outstanding infrastructure or servicing issues. These factors result in a proposal that is wholly consistent with the provisions of both National and Local Planning Policy in addition to helping to address the locally and nationally declared 'housing emergency'.

It is the opinion of the Planning Authority that the information that is available, together with the officer assessment of the relevant planning issues contained within this report, are sufficiently detailed and robust to enable Members to make an informed decision based on all of the material planning considerations in this case.

On this basis, therefore, it is not considered that the objections raise any complex or technical issues that have not been addressed in the current Report of Handling and it is not considered that a discretionary local hearing would add value to the planning process.

(O) (i) Key Constraints/Designations Affected by the Development:

Local Landscape Area

(ii) Soils

Agricultural Land Classification: Built-up Area/Unclassified Land

Peatland/Carbon Rich Soils Classification: Class 1
 Class 2
 Class 3
 N/A

Peat Depth Classification: N/A

Does the development relate to croft land? Yes No

Would the development restrict access to croft or better quality agricultural land? Yes No N/A

Would the development result in fragmentation of croft / better quality agricultural land? Yes No N/A

(iii) Woodland

Will the proposal result in loss of trees/woodland? Yes No

Does the proposal include any replacement or compensatory planting? Yes No – details to be secured by condition Not applicable

(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application Brownfield Brownfield Reclaimed by Nature Greenfield

ABC LDP2 Settlement Strategy

- Settlement Area
- Countryside Area
- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

ABC LDP2 Allocations/PDAs/AFAs etc:

N/A

(P) Summary assessment and summary of determining issues and material considerations

Planning Permission is sought for the erection of eight dwellinghouses on a grassed area of land measuring 0.23 hectares in Rothesay, Isle of Bute. It has frontages to the east with Prospect Terrace and to the south with Ballochgoy Road with the part along Ballochgoy Road sloping downwards from west to east whilst the Prospect Terrace end is relatively flat.

The proposal comprises four dwellinghouses (two semi-detached blocks) along the Ballochgoy Road frontage and four dwellinghouses (two detached blocks and one semi-detached block) along the Prospect Terrace frontage. The buildings would be two storeys in height; would have a mix of white render and buff brick external wall finish; grey concrete roof tiles; and grey uPVC windows.

Vehicular accesses are to be formed to serve in-curtilage parking spaces whilst connection is to be made to the public water supply and waste water system.

Principle of Development

The site is located within the 'Main Town' of Rothesay as identified in the adopted Argyll and Bute Local Development Plan (LDP2) and, given that it was previously occupied by flatted blocks but is now grass, it represents brownfield land that has become naturalised.

The type of development that is proposed is considered to be compatible within this established homogenous residential area and it would be a small-scale scheme in the context of its surroundings.

It successfully contributes to 'Local Living' by providing homes where the occupants can meet the majority of their daily needs within a reasonable distance by walking, wheeling or cycling or using sustainable transport options.

Furthermore, it would provide eight units of affordable housing via a Registered Social Landlord and agreement on the timescale for build-out can be achieved through a condition.

Sense of Place and Quality of Design

Having regard to the built development pattern and densities of the local area, it is noted that there is a range of scale and design of houses. The proposed dwellings will most closely resemble the buildings that the housing association erected in the upper part of Ballochgoy Road and along Blain Terrace and, in this sense, their scale, design and finishes are reflective of nearby properties that have been constructed in the relatively recent past.

As evidenced by the contents of the checklists provided by the agent, a significant number of features are incorporated into the development that demonstrate its 'Sustainability' credentials, including renewable energy and design & construction methods, which fully accord with current Development Plan policy.

Natural Environment

No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and, in the particular circumstances of the proposal, no conditions relating to specific measures for biodiversity enhancement and protection are considered to be necessary.

The site for the proposed development is not within an area that is designated for its nature conservation interests.

The site is located within the Bute Local Landscape Area (LLA), and it is considered that the submitted plans and drawings; the completed Sustainability Checklist and Sustainable Buildings Checklist; and the carrying out of an officer site inspection provide sufficient information to allow an appropriate form of assessment to be carried out.

Although the Ballochgoy area is in an elevated position that can be seen from a number of medium-to-long distance views, the application site is a relatively minor component within the wider panoramic landscape. The proposed dwellings would reflect the predominant colour scheme that is a recognisable feature from the more distant viewpoints and, as such, the development would have a 'neutral' effect upon the visual qualities of the wider LLA.

The site is not within an identified area of peatland, carbon-rich soils or priority peatland habitat nor does it have an agricultural land classification. As such, there are no issues in relation to soil disturbance.

Residential Amenity

There are potential issues of interlocking between habitable room windows but these can be addressed through the attaching of suitably-worded conditions.

Access, Parking and Impact on the Local Road Network

The development site is served by two bus services and is located appropriately in terms of connecting into existing active travel networks such as walking, wheeling and cycling. The provision of a vehicle charging point, or the infrastructure to allow its installation at a future date, can be secured by means of a planning condition.

It is proposed that each dwellinghouse would have an individual driveway onto the public road that would serve two or three in-curtilage parking spaces appropriate to the number of bedrooms in the property.

The Area Roads Engineer had initially raised two issues – the proximity of one set of parking spaces to an existing junction and the dropping of the kerb across the full length of the footway rather than having repeated transitions.

The agent has submitted a revised plan addressing these two matters and it has been accepted by the Roads Engineer.

Waste Storage, Infrastructure, Services, Flood and Water Management

The only issue of significance relates to the proposed drainage strategy whereby surface water would be collected at each of the proposed dwellings, attenuated and then discharged into the combined Scottish Water sewer close to the site.

The principle of this type of arrangement is not generally supported by Scottish Water although they mention that they would consider a request for a connection should special circumstances be demonstrated.

It is understood that there is an ongoing dialogue between consultants representing the developer and Scottish Water and, in these particular circumstances, it is considered that a negatively-worded suspensive condition is appropriate.

(Q) Is the application consistent with the Development Plan: Yes No

(R) Reasons why Planning Permission should be granted

The proposal is considered to be consistent with the relevant provisions of the Development Plan which comprise National Planning Framework 4 and Local Development Plan 2 and there are no other material considerations of sufficient

significance to indicate that it would be appropriate to withhold planning permission having regard to Section 25 of the Act.

(S) Reasoned justification for a departure to the provisions of the Development Plan

Not applicable.

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:

Yes No

Author of Report: Steven Gove

Date: 30th August 2024

Reviewing Officer: Kirsty Sweeney

Date: 30th August 2024

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 24/00564/PP**Standard Time Limit Condition for Planning Permission (as defined by Regulation)****Standard Condition on Soil Management During Construction****Additional Conditions**

1. Unless otherwise directed by any of the conditions below, the development shall be implemented in accordance with the details specified on the application form dated 22nd March 2024; the Addendum dated 3rd April 2024; supporting information; and the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	Drawing No. 7860/LOC	-	28.03.2024
Existing Site Plan	Drawing No. 7860/01	B	04.04.2024
Proposed Site Plan	Drawing No. 7860/02	F	22.08.2024
House Type B	Drawing No. 7860/03	D	28.03.2024
House Type E	Drawing No. 7860/04	D	04.04.2024
Street Elevations as Proposed	Drawing No. 7860/05	A	25.03.2024
Existing Below Ground Drainage Layout	Drawing No. 312115-HAH-XX-XX-D-C-00030	P01	25.03.2024
Existing Below Ground Drainage Layout (Remediation)	Drawing No. 312115-HAH-XX-XX-D-C-00031	P02	25.03.2024
Proposed Below Ground Drainage Layout	Drawing No. 312115-HAH-XX-XX-D-C-00032	P03	25.03.2024
Proposed External Levels Layout	Drawing No. 312115-HAH-XX-XX-D-C-00040	P04	25.03.2024

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. Parking Spaces and Dropped Footways

Unless otherwise agreed in writing with the Planning Authority, prior to the development first being occupied, the following works shall be completed in accordance with the details shown on the approved Drawing No. 7860/02 Rev F '*Proposed Site Plan*':

- The parking areas within the curtilage of each dwellinghouse and the visitor parking spaces shown as V1 and V2 shall be laid out and surfaced and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles
- The entire length of the footway along Ballochgoy Road between the westernmost parking bay at Plot 8 and the easternmost parking bay at Plot 5 shall be dropped
- The entire length of the footway along Prospect Terrace between the northernmost parking bay at Plot 1 and the southernmost parking bay at Plot 4 shall be dropped

Reason: In the interests of road and pedestrian safety.

3. Visibility Splays

Prior to the occupation of each individual dwellinghouse, sightlines of 42 metres in both directions, measured from a distance of 2.4 metres back from the edge of the public road at the centre point of the two in-curtilage parking spaces, shall be cleared of all obstructions above a height of 1.05 metres from the level of the road and thereafter maintained as such in perpetuity.

Reason: In the interests of road and pedestrian safety.

4. Removal of PD Rights - Dwellinghouses

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Class 1D and 2B of the aforementioned Schedule, as summarised below:

Class 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 2B: Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

Reason: To prevent the formation of additional window/door openings or dormer windows which may give rise to a loss of privacy to adjoining property without prior assessment on application by the Planning Authority; which would otherwise be capable of being carried out under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

5. Secure Affordability by Restricting Development to RSL

The development hereby permitted shall only be implemented by a Registered Social Landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification) and shall not enure for the benefit of any other person, company or organisation.

Reason: To ensure the provision of affordable housing to the standard required by the development plan in the absence of any other agreed means of securing such provision.

6. Timescale to be Agreed for Completion

Prior to development commencing, details of the proposed timescale for completion of the approved development shall be submitted to and agreed in writing with the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 16F.

7. Electric Vehicle Charging

Prior to the commencement of the development (or such other timescale as may be agreed in writing with the Planning Authority), a scheme detailing the provision of a minimum 7kw electric vehicle charging point shall be submitted to and approved in writing by the Planning Authority. Where charging cannot be provided then the appropriate ducting to future proof the property must be installed.

The approved charging point or, where relevant, the approved cable ducting shall be installed in full prior to the first occupation of the development, and thereafter retained in perpetuity unless otherwise agreed in writing by the planning authority

Reason: to comply with the provisions of NPF4 Policy 13 Sustainable Transport and LDP2 Policy 34 – Electric Vehicle Charging.

8. Surface Water Drainage

No development shall commence on the site until written evidence has been submitted to the Planning Authority that Scottish Water (or any of its successors as the organisation responsible for the public waste water treatment system) has authorised the connection of surface water drainage from the site into the combined sewer. Such evidence shall include full details of the design of the surface water drainage system that has been agreed with Scottish Water and the approved arrangements shall be fully installed prior to the occupation of the dwellinghouses.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

9. Landscape/Surface/Boundary Treatment and Biodiversity Enhancement

No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels;
- iv) Proposed hard and soft landscape works including the details of the retaining walls;
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity, and to comply with the requirements of NPF4 Policy 3

10. **Construction hours**

In order to minimise, as far as necessary, the level of noise and/or vibration to which nearby existing residents will be exposed during the erection of the dwellinghouses, the hours of working in relation to the construction of the development on the site should be restricted to 08.00 to 18:30 Monday to Friday and 08.00 to 13.00 on Saturdays. There should be no operations on Sundays or Bank Holidays. All operations should be undertaken in compliance with best practicable means for noise and vibration control as documented in BS 5228- 1:2009+A1:2014 and BS 5228-2:2009+A1:2014.

Reason: In order to avoid sources of nuisance in the interest of amenity.

11. **Provision of Screening to Prevent Interlooking Between Habitable Room Windows**

Prior to the occupation of the dwellinghouses identified on the approved plans as Plot Numbers 7 and 8, details of those screening measures that are to be implemented along the boundary of the site as it meets with the southernmost curtilage of No. 2 Blain Terrace shall be submitted to and approved in writing by the Planning Authority.

Such details shall identify the provision of a fence (or similar means of boundary treatment) that shall ensure there is no direct unobstructed line of sight between the window on the south-facing elevation of No. 2 Blain Terrace and the windows of any habitable rooms on the north-facing elevations of the dwellinghouses on Plot Numbers 7 and 8.

The screening measures shall be fully installed in accordance with the approved details prior to the occupation of the subject dwellinghouses and shall be maintained

in a safe and tidy condition thereafter unless the prior written consent of the Planning Authority is obtained for variation.

Reason: In the interests of the privacy and amenity of the existing and proposed dwellinghouses having regard to the relevant provisions of NPF4 and the Argyll and Bute Local Development Plan 2 and its related Technical Notes.

12. Installation of Air Source Heat Pump

Prior to the installation of any air source heat pumps within the development site, full details of their location and specification shall be submitted to and approved in writing by the Planning Authority. The noise level from the operation of any air source heat pumps that are installed must not exceed 42dB LAeq (5 min) at 1 metre from the window of a habitable room on the façade of any neighbouring residential property.

If, in the opinion of the Planning Authority, any air source heat pump results in a noise nuisance to the occupant of any neighbouring dwelling, the Applicant shall install noise mitigation measures in agreement with the Planning Authority.

Reason: In order to avoid sources of nuisance in the interest of amenity

13. Waste Storage

Prior to the occupation of the dwellings hereby approved, a detailed specification of the containers to be used to store waste materials and recyclable materials produced by the dwelling houses as well as specific details of the areas where such containers are to be located shall be submitted to and approved in writing by the Planning Authority.

Unless otherwise agreed in writing with the Planning Authority, the storage of waste and recyclable materials shall be fully installed in accordance with the approved details prior to the occupation of each dwellinghouse.

Reason: In the interest of visual amenity; to ensure that there is adequate storage for recycling of waste; and to protect the amenity of the immediate area by preventing the creation of nuisance due to odours, insects, rodents or birds.

14. Construction Management Plan

Prior to the commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved in writing by the Planning Authority. The plan shall include the following:

- Contact details for the contractor
- The proposed route of construction traffic
- The turning areas and wheel washing areas
- The provision of appropriate signage
- The location of the site compound (if any) and the parking area for vehicles belonging to site operatives and visitors
- The location of the storage area (if any) for plant and materials used in the construction the development
- The method of working and the measures to be implemented to control the emission of dust during construction. Such details shall be in accordance with the methodology outlined in the IAQM guidance on the assessment of dust from demolition and construction 2014 (version 1.1)

- The location of the security fencing

Thereafter, all works shall be carried out in accordance with the agreed Construction Management Plan.

Reason: In order to avoid sources of nuisance in the interests of amenity.

INFORMATIVE NOTES

1. The attention of the applicant/developer is drawn to the contents of the letter from Scottish Water dated 17th April 2024, which is available for inspection on the Council's web site.

With specific regard to Condition 8 above, it should be noted that Scottish Water have stated that, other than in limited exceptional circumstances, they will not accept any surface water connections into their combined sewer system for reasons of sustainability and to protect existing customers from flooding. In order to depart from this position on surface water connections, Scottish Water require significant justification to be prepared and submitted by the applicant/developer.

It will be for the developer and their engineers to submit their case to Scottish Water. If this is found to be an unacceptable arrangement, an amended development may have to be designed or a different surface water drainage system may have to be formulated. The details of such a scheme will be expected to comply with SuDS and will be considered by the Planning Authority's Flood Risk Adviser as required.

2. Those works to be undertaken on or adjacent to the public road will require a Road Opening Permit (S56) in advance of being carried out and it will also be necessary for positive drainage measures to be incorporated into the design of each individual access to ensure that surface water drainage will not pass on to the footway or carriageway. The applicant/developer is advised to contact Roads and Amenity Services on 01546 605514 or to use the following link to the Council's website: <https://www.argyll-bute.gov.uk/licences/road-opening-permit>

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 24/00564/PP

PLANNING LAND USE AND POLICY ASSESSMENT

Site and Proposed Development

The Canmore website (which is compiled and managed by Historic Environment Scotland) explains that the Ballochgoy area is on a steeply sloping site in the western part of Rothesay that stretches from Chapelhill in the north, through Columshill, to Barone Road in the south.

The earliest buildings in Ballochgoy were to the north and date from the late 18th century. There was expansion in the middle portion during the late 1930s with the development of planned streets and terraces comprising four-in-a-block local authority housing. In the southern part, a later phase of local authority housing was built in the 1970s, which comprises terraced houses and bungalows in a staggered layout centred on Bryce Avenue and Robertson Drive.

Between 2005 and 2008, Fyne Homes carried out a major reworking of the 1930s local authority housing to build homes fit for purpose in the 21st century. The redevelopment of Blain Terrace, Prospect Terrace, Ballochgoy Road and the western side of Longhill Crescent involved the demolition of twenty residential blocks (a total of eighty-eight units) and the erection of thirty-four dwellings.

This scheme retained the main boundaries of the underlying 1930s plot structure but redeveloped the plots within these boundaries to create larger units comprising semi-detached properties with their own gardens rather than the previous four-in-a-block properties sharing 'back greens'.

At the time of the redevelopment, Fyne Homes Initiatives (a subsidiary of Fyne Homes) retained eight plots within the overall development area and these were the subject of individual Outline Planning Permissions in 2006/2007 and Planning Permissions in Principle in 2016. None of these permissions were progressed through the submission of detailed proposals and, as mentioned in Section (D) of this report, six of these plots comprise the current application site.

The development site is presently covered by grass and measures an area of 0.23 hectares. It has frontages to the east with Prospect Terrace and to the south with Ballochgoy Road with the part along Ballochgoy Road sloping downwards from west to east whilst the Prospect Terrace end is relatively flat.

The proposal relates to the erection of four dwellinghouses (two semi-detached blocks) along the Ballochgoy Road frontage and four dwellinghouses (two detached blocks and one semi-detached block) along the Prospect Terrace frontage. The buildings would be two storeys in height; would have a mix of white render and buff brick external wall finish; grey concrete roof tiles; and grey uPVC windows.

Vehicular accesses are to be formed to serve in-curtilage parking spaces whilst connection is to be made to the public water supply and waste water system.

The assessment of the issues in this section of the report pay due regard to the overarching **NPF4 Policy 1**, which seeks to prioritise the climate and nature crises in all decisions. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance for or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

The key issues for consideration are:

1. Spatial & Settlement Strategy and Principle of Development
2. Sense of Place and Quality of Design
3. Natural Environment
4. Residential Amenity
5. Access, Parking and Impact on the Local Road Network
6. Infrastructure and Services
7. Flood and Water Management

Spatial & Settlement Strategy and Principle of Development

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change.

Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions.

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings and to help reduce the need for greenfield development. NPF4 Policy 9(a) supports proposals that will result in the sustainable reuse of brownfield land and, in determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

NPF4 Policy 15(a) seeks development proposals to contribute to ‘*Local Living*’ including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to a number of facilities.

NPF4 Policy 16 seeks to “*encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes in the right locations*” and to provide choice of tenure to meet diverse housing needs. NPF4 Policy 16 (f) supports new homes on land not allocated for housing where the proposal is supported by an agreed timescale for build-out; it is otherwise consistent with the plan spatial strategy and other relevant policies, including local living; it is consistent with the policy on rural homes; and it represents a smaller scale opportunity within an existing settlement.

Policy 01 (‘*Settlement Areas*’) of the Argyll and Bute Local Development Plan (LDP2) notes that development will normally be acceptable where, *inter alia*:

- It involves the redevelopment of a brownfield site
- It is compatible with surrounding uses including, but not exclusively, the provision of access, service areas and infrastructure for existing, proposed or potential future development

- It is of an appropriate scale and fit for the size of settlement in which it is proposed
- It respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements
- It complies with all relevant LDP2 policies

LDP2 Policy 66 (*'New Residential Development On Non-Allocated Housing Sites within Settlement Areas'*) requires that new buildings will only be permitted where:

- The layout, density, plot ratio, scale, form and materials of any proposed development do not detract from the character of the surrounding buildings and the local area
- It does not affect the privacy and amenity of existing and proposed properties
- The site provides a suitable residential environment
- It provides appropriate private and public open space and
- An appropriate standard of access to and parking for vehicles associated with the development is provided, it does not result in the loss of any existing parking spaces, and that traffic generated as a result of the development is capable of being accommodated within the capacity of the existing road network surrounding the development
- It is not detrimental to the overall housing land supply of the LDP2

LDP2 Policy 67 (*'Provision of Housing to Meet Local Needs Including Affordable Housing'*) requires that all new housing developments of 8 or more units will generally be expected to contribute a proportion of affordable housing and to provide a range of house types and sizes to meet the local housing needs and demand identified in the Housing Needs and Demand Assessment for each housing market area.

Assessment

The site is located within the *'Main Town'* of Rothesay as identified in the adopted Argyll and Bute Local Development Plan (LDP2) and, given that it was previously occupied by flatted blocks but is now grass, it represents brownfield land that has become naturalised.

The type of development that is proposed is considered to be compatible within this established homogenous residential area and it would be a small-scale scheme in the context of its surroundings. It successfully contributes to *'Local Living'* by providing homes where the occupants can meet the majority of their daily needs within a reasonable distance by walking, wheeling or cycling or using sustainable transport options. Furthermore, it would provide eight units of affordable housing and agreement on the timescale for build-out can be achieved through a condition.

The detailed assessment that follows in this report demonstrates that the proposed development would preserve the character and appearance of the townscape in terms of use, density, scale, massing, design, external finishes, access and infrastructure arrangements.

On the basis of the above, it is considered that there is a general presumption in favour of the principle of this proposed development in terms of its location, nature and scale

when assessed against the policy provisions relating to the LDP2 Settlement Strategy and relevant NPF4 Policy.

Sense of Place and Quality of Design

NPF4 Policy 14 seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

NPF4 Policy 14(b) supports development proposals where they would be consistent with the six qualities of 'health'; 'pleasantness'; 'connectivity'; 'distinctiveness'; 'sustainability'; and 'adaptability'. NPF4 Policy 14(c) does not support development that is poorly designed, detrimental to the amenities of surrounding areas or inconsistent with the aforementioned six qualities.

NPF4 Policy 14 is closely aligned with the provisions of LDP2 Policy 04 ('Sustainable Development') which requires developers to demonstrate certain sustainable development principles and also Policy 05 ('Design and Placemaking') which requires developers to comply with certain placemaking criteria including: compatibility with surrounding land uses; making use of existing infrastructure; respecting site topography; improving connectivity; and adopting design that respects and complements its surroundings and which is sustainable in terms of materials and construction.

LDP2 Policy 08 ('Sustainable Siting') requires that development integrates into the landscape or existing built form to minimise detrimental effects on the environment. The siting of a development should take into account the character of the area in terms of its settlement pattern, layout and density. It should be positioned within the landscape to make the best use of solar gain, natural ventilation and shelter from the elements and located within easy access of existing infrastructure and services. Additionally, any ancillary development such as parking and turning areas should be sensitively designed and sited.

LDP2 Policy 09 ('Sustainable Design') requires that development proposals demonstrate consideration of renewable energy and sustainable design & construction methods. LDP2 Policy 10 ('Design: All Development') requires demonstration of an appropriate response to the development site and wider context; an acknowledgement of the scale / massing of nearby buildings; and the use of materials that are harmonious with the context.

In relation to sustainability, the application has included the submission of the 'Sustainability Checklist' and the 'Sustainable Buildings Checklist' in response to LDP2 Policy 09. The application responds to the sustainability criteria as follows:

- The proposed modular construction process greatly reduces construction waste through the accurate quantification and control of materials. The materials are brought into a controlled factory environment and kept clean, dry and organised for use, thereby reducing waste and damage particularly as a result of weather. Use of material off-cuts and recycling of waste and packaging is also made much easier by the controlled factory environment
- The proposed modular construction process minimises deliveries, material storage and works on site which vastly reduces the risk of any environmental disruption
- Where possible, the intention will be to procure from the local supply chain for groundworks; bulk stone; retaining structures; plot works; etc.
- The proposals will utilise a volumetric modular, timber frame structure rather than a higher embodied material such as a concrete or steel frame solution

- The site is relatively steeply sloping and will, therefore, require works to create level development plots. A 'cut and fill' exercise is being proposed although it is being kept to a minimum. The development has been designed to work as best as possible with the existing levels and previously engineered platforms
- The use of retaining walls allows the homes to hunker down into the sloping site to integrate into the topography. The orientation of the buildings and site layout work with the natural contours of the site
- The allowance for the installation of a future shower on the ground floor and stair-lift is in accordance with the technical standards and 'Housing for Varying Needs'
- The project supports new ways of working as the houses include home working spaces that would accommodate a desk and internet access
- The proposed homes have been designed on the site to make the best use of solar gain, natural ventilation and shelter from the elements through the use of greater glazing on south facing elevations. These windows open to maximise ventilation and the homes will be sheltered through the use of retaining walls
- Air source heat pumps will be installed to provide space/water heating which provides a net-zero carbon at source technology
- Aerated taps are included as a water saving technology
- The refuse strategy for the site will comply with local policy. Bin storage areas within private gardens will accommodate the necessary number of waste and recycling bins
- Each home includes its own private garden space to allow bicycle storage
- The proposals will align with Building Control requirements in relation to Electric Vehicle Charging

Assessment

Having regard to the built development pattern and densities of the local area, it is noted that there is a range of scale and design of houses – the semi-detached dwellings surrounding the site to the north and west that were built by Fyne Homes in the second half of the 2000s and the older and more substantial four-in-a-block properties located further above the site on St Bride's Road and below the site on Longhill Terrace.

The proposed dwellings will most closely resemble the buildings that the housing association erected in the upper part of Ballochgoy Road and along Blain Terrace and, in this sense, their scale, design and finishes are reflective of nearby properties that have been constructed in the relatively recent past.

As evidenced by the contents of the checklists provided by the agent, a significant number of features are incorporated into the development that demonstrate its 'Sustainability' credentials, including renewable energy and design & construction methods, which fully accord with current Development Plan policy.

On the basis of the foregoing, the proposed development is considered to accord with the Policies that are referred to in the paragraphs above.

Natural Environment

NPF4 Policy 3 generally seeks to protect biodiversity, reverse biodiversity loss and to deliver positive benefits from development that strengthens nature networks. It is generally aligned with LDP2 Policy 73 (*Development Impact on Habitats, Species and Biodiversity*), although NPF4 Policy 3(c) goes beyond the LDP2 requirements in relation to the current biodiversity interests of the site.

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions and, insofar as it relates to the location, nature and scale of the current proposal, it largely aligns with the provisions of LDP2 Policy 73.

LDP2 Policy 04 (*Sustainable Development*) seeks to conserve and enhance the natural and built environment and to avoid significant adverse impacts on biodiversity, natural and heritage assets. LDP2 Policy 73 ensures that other legislation relating to biodiversity habitats are fully considered in relation to development proposals; and generally that development does not have an adverse impact on habitat or species, particularly in relation to habitat or species designated as being of European, national or local significance.

The site is located in the Bute Local Landscape Area (LLA) and this designation is a recognition of locally important physical landforms that are of scenic value. LDP2 Policy 71 seeks to resist development in, or affecting, an LLA where its scale, location or design would have a significant adverse impact on the character of the landscape and one of the requirements contained in it is that an application for development within an LLA should be supported by a landscape and visual impact assessment.

NPF4 Policy 5 seeks to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development. Policy 5(a) only supports proposals if they are designed and constructed in accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; in a manner that protects soil from damage including from compaction and erosion; and that minimises soil sealing.

LDP2 Policy 79 seeks to only support development where appropriate measures are taken to maintain soil resources and functions to an extent that is considered relevant and proportionate to the scale of the development.

Policy 5(b) only supports proposals on prime agricultural land or on land of lesser quality that is culturally or locally important for primary use providing that they might specific criteria.

Assessment

The site presently comprises grassland that has been left vacant since the demolition of the previous buildings on the site nineteen years ago. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and, in the particular circumstances of the proposal, no conditions relating to specific measures for biodiversity enhancement and protection are considered to be necessary.

The site for the proposed development is not within any of the following: a designated European site of natural environment conservation or protection; a National Scenic Area; a SSSI or RAMSAR site; a National Nature Reserve; or a Local Nature Conservation Site.

Whilst the site is located within the Bute LLA, no formal landscape and visual impact assessment has been submitted with the application. However, the proposal is for a small scale residential development that would be viewed in the context of an area of existing housing. In these circumstances, it is considered that the submitted plans and drawings; the

completed Sustainability Checklist and Sustainable Buildings Checklist; and the carrying out of an officer site inspection provide sufficient information to allow an appropriate form of assessment to be carried out.

Given its elevated position, the Ballochgoy area can be seen from a number of medium-to-long distance views, including at '*street level*' in East Princes Street and Battery Place to the east and north-east of the town centre and from the higher locations in the eastern part of Rothesay around Serpentine Road, Canada Hill and the Roseland Holiday Park.

These views are panoramic in nature and the application site, whilst visible, is a relatively minor component within a wider landscape. There are variations in the design of buildings in the Ballochgoy townscape although dark grey roof coverings and white external walls predominate and the proposed dwellings would reflect this colour scheme.

In the circumstances set out above, it is considered that the proposal would have a '*neutral*' effect upon the visual qualities of the wider LLA.

The site is not within an identified area of peatland, carbon-rich soils or priority peatland habitat and, in these circumstances, it is considered sufficient that the standard soil management condition (ensuring compliance with the established best practice set out by DEFRA) is attached to the Decision Notice.

The site is within a built-up area and does not have an agricultural land classification. On this basis, it is not considered that the proposal would result in the loss of land that is "*culturally or locally important for primary use*".

On the basis of the foregoing, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above.**

Residential Amenity

LDP2 Policy 08 ('*Sustainable Siting*') requires that proposals should integrate into the landscape or existing built form to minimise detrimental effects on the environment taking into account a number of factors, including the careful siting of development to avoid overshadowing or overlooking of itself or other properties.

Section 2.0.3 of TN06 '*Sustainability Technical Note and Checklist*' includes the following comments:

"No main window of a habitable room (i.e. all rooms except bathrooms and hallways) within a dwelling shall overlook (directly face) the main windows of habitable rooms in neighbouring dwellings at a distance of less than 18 metres ... These standards may be relaxed where the angle of view or the design (i.e. use of frosted glass) of the windows allows privacy to be maintained."

Assessment

In respect of potential interlooking, the first issue is that the south-facing gable of 2 Blain Terrace has a kitchen window and it would be located approximately 16 metres from the north-facing (rear) gable of the dwellings shown for Plots 7 and 8, which is shown as having windows serving bedrooms on the upper floor and windows and glazed doors serving a lounge on the ground floor.

This matter was drawn to the attention of the agent and, in their e-mail dated 17th July, they have suggested that a solution would be for a condition to be attached requiring a 1800mm

high close boarded timber fence to be erected on an agreed route along the boundary between the existing and proposed houses. They have confirmed that Fyne Homes own the existing and proposed properties and, therefore, would be able to control this requirement.

The second issue is that the north-facing gable of the existing Nos. 7 and 8 Lilyoak Terrace has two windows that face toward the south-facing gable of the proposed dwelling on Plot 4 and these would be 14 metres apart.

Whilst no windows are currently shown on the south-facing gable of Plot 4, the rooms at this side of the proposed dwelling are all '*habitable*' and, as a result of householder '*Permitted Development*' rights, Planning Permission would not be needed if, at some point in the future when the buildings had been constructed, new window or door openings were to be installed in this elevation.

The layout of the proposed development itself could also result in potential situations where new windows serving habitable rooms could face each other at a distance of less than 18 metres.

In their e-mail dated 17th July, the agent has confirmed that Fyne Homes are content for the attaching of a condition that withdraws the '*Permitted Development*' rights associated with the creation of new window and door openings such that the approval of the Planning Authority would be required in advance of this type of work taking place.

On the basis of the foregoing, and subject to the attaching of suitably-worded conditions, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above.**

Access, Parking and Impact on the Local Road Network

NPF4 Policy 13 generally seeks "*to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably*".

More specifically, NPF4 Policy 13(b) supports developments where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they, *inter alia*:

- Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation
- Will be accessible by public transport, ideally supporting the use of existing services

LDP2 Policy 32 largely aligns with the provisions of NPF4 Policy 13 in terms of ensuring that new development is sustainably located with regard to local services and public transport routes and has safe links with active travel networks.

LDP2 Policy 34 requires the provision of electric vehicle charge points or the installation of infrastructure with the potential to accommodate charge points in future. All new-build houses with private off street parking are required to install dedicated cable ducting connecting each private residential parking space to the nearest electricity supply connection point capable of supporting the installation of a 7 kW EV charging point.

LDP2 Policy 35 advises that the acceptance of development utilising new and existing public roads, private roads and private access regimes is subject to road safety and street design issues being addressed to the satisfaction of the Roads Authority and the Planning Authority.

LDP2 Policy 36 considers that new private accesses forming an individual private driveway serving a single user development may be acceptable where they do not, in the view of the Planning Authority, generate unacceptable levels of traffic in relation to the access regime.

LDP2 Policy 39 sets out construction standards for new private accesses in order to function safely and effectively. This includes reference to visibility, geometry, gradients, widths, etc.

LDP2 Policy 40 requires the provision of off-street parking to Council approved standards relative to the type of development as set out in Table 5. For housing (Use Class 9), the requirement is two spaces for a two-three bedroom unit or three spaces for a four-bedroom (or more) unit.

Assessment

In terms of active travel principles, the development site is located within the existing town of Rothesay and the bus services 491 and 492 run along Ballochgoy Road directly in front of the proposed dwellings. The nearest bus stop is less than 10 metres from the front door of Plot 6.

The location is appropriate in terms of connecting into existing active travel networks such as walking, wheeling and cycling. The provision of a vehicle charging point, or the infrastructure to allow its installation at a future date, can be secured by means of a planning condition.

As regards access and parking, it is proposed that each dwellinghouse would have an individual driveway onto the public road that would serve two or three in-curtilage parking spaces appropriate to the number of bedrooms in the property.

The Area Roads Engineer initially commented that the two parking spaces to be provided for the dwelling at Plot 8 were excessively close to the junction of Ballochgoy Road and Blain Terrace and, in that position, would present a road safety risk.

In response, the agent has submitted a revised plan identifying the relocation of the parking bays for Plots 7 and 8 in an easterly direction with the first bay to be positioned 11.5m (or thereby) from the heel kerb of Blain Terrace. The Area Roads Engineer has confirmed that this amended arrangement satisfactorily addresses the concern that he had expressed.

The second matter raised by the Roads Department was that, for the convenience of pedestrians / wheelers, those footways that would be contiguous with each of the off-street parking spaces should be dropped across their full length rather than having repeated transitions. The agent has confirmed that Fyne Homes are content with this recommendation and the revised plan includes the recommended adjustment.

A condition has also been recommended by the Roads Department in respect of the formation and maintenance of 42 metre sightlines in both directions at each of the individual in-curtilage parking spaces.

On the basis of the foregoing, and subject to suitably-worded conditions and informative notes, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above.**

Waste Storage/Collection, Infrastructure and Services

NPF4 Policy 12(c) expects that those developments that are likely to generate waste when operational (including residential, commercial, and industrial properties) should incorporate

measures to minimise the cross-contamination of materials through the appropriate segregation and storage of waste together with convenient access for the collection of waste.

Policy 63 of LDP2 explains that developments shall make effective land use and layout provision for the storage, separation, recycling, composting and collection of waste.

NPF4 Policy 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of place making.

Policy 18(b) advocates that the impacts of development proposals on infrastructure should be mitigated and that they will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure.

NPF4 Policy 22 seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding and one of the policy outcomes is that water resources are used efficiently and sustainably.

Policy 22(d) supports the connection of new development to a public water supply but states that, if connection is not feasible, the applicant will need to demonstrate that water for drinking purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.

Policy 60 of LDP2 explains that connection to the public sewer as defined in the Sewerage (Scotland) Act 1968 will be a prerequisite of planning permission for development proposals in all settlements where there is a public sewer available.

Assessment

The proposed development is likely to generate waste when the dwellinghouses are occupied and, as this part of Ballochgoy already benefits from regular waste uplifts by the Council, it is expected to comply with the Local Authority's adopted and enforced recycling and reuse strategy. The application shows an area within the grounds of each dwellinghouse for the accommodation of the necessary number of waste and recycling bins and finalised details of these arrangements are sought through a condition.

The proposed development is to be connected to the public water supply and the public waste water treatment system. Scottish Water has confirmed that there is currently sufficient capacity to service the development in the Dhu Loch Water Treatment Works and for a foul only connection in the Rothesay Waste Water Treatment Works although further investigations may require to be carried out once formal applications are submitted to them.

On the basis of the foregoing, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above.**

Flood and Water Management

NPF4 Policy 22 seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding and one of the policy outcomes is that places are resilient to current and future flood risk.

NPF4 Policy 22(c) seeks to ensure that proposed developments will not increase the risk of surface water flooding to others, or itself be at risk; will manage all rain and surface water through sustainable urban drainage systems (SUDS); and will seek to minimise the area of impermeable surface. There should also be a presumption against surface water connection

to the combined sewer.

LDP2 Policy 61 seeks to ensure that development proposals manage all rain and surface water through sustainable urban drainage systems (SuDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All SuDS features should be in accordance with the Principles of The SuDS Manual (C753).

LDP2 Policy 62 relates to Drainage Impact Assessments and it states that developers will require to demonstrate that all development proposals incorporate proposals for SuDS measures in accordance with technical guidance. In association with applications for certain categories of development, a Drainage Impact Assessment (DIA) should be submitted and one of these categories involves the erection of six or more new dwellinghouses.

Assessment

The application has been accompanied by a '*Drainage, SuDS and Surface Water Management Plan*' prepared by Harley Haddow in November 2023 and revised in June 2024. A summary of the main points is as follows:

- A review of the SEPA interactive flood maps indicates that the development is not at risk of any fluvial (river), pluvial (surface water) or coastal flooding whilst a brief review of the Future Flood Maps on the SEPA Flood Map Data also shows that there is no future risk of river or coastal flooding at this point. No other information has been found at this time to indicate that the development is at risk of flooding from any other sources.
- Surface water discharge for the proposed development is set to enter the combined sewer that runs along Ballochgoy Road and Prospect Terrace with an individual connection for each dwelling. Surface water will be treated using porous paving before exiting the site boundary and connecting into the existing Scottish Water network.
- SuDS are a sequence of management practices and control structures designed to drain surface water in a more sustainable fashion than "*conventional*" techniques. The requirement for SuDS to account for the quantity and quality of surface water is an intrinsic part of the planning process and all new developments.

The SuDS proposal for this site involves conveying the surface water run-off from roofs to the proposed outfall via down pipes and gravity surface water drainage. Surface water flows from hard standing areas will be conveyed via gullies and permeable paving. The treatment will be provided by a proposed at source permeable paving, filter areas to treat roof and carriageway runoff. SuDS proposals for this development have been designed in accordance with the SuDS Manual C753.

- Maintenance of SuDS systems should be carried out in accordance with manufacturer's guidelines and the SuDS Manual C753. A proposed SuDS maintenance strategy is proposed in the Harley Haddow report and should be implemented by Fyne Homes through a suitable maintenance contact or factoring agreement.

In their consultation response, Scottish Water have stated that, for reasons of sustainability and to protect customers from potential sewer flooding, there are only limited exceptional circumstances where they would allow surface water connection into a combined sewer. These would be for brownfield sites where there was significant justification from the customer (i.e. developer) taking into account various factors including legal, physical and technical challenges.

Scottish Water advocate that they should be contacted by developers at the earliest opportunity (prior to submitting a connection request) with strong evidence to support the intended drainage plan. A robust assessment is then carried out and a decision is provided that reflects the best option from environmental and customer perspectives.

In subsequent correspondence with Harley Haddow consultants, it has been confirmed that a full application has been progressed with Scottish Water, which is at Technical Approval stage and is based on the drainage proposals identified in their '*Surface Water Management Plan*' document. They have advised that this is awaiting the client progressing with the Technical Approval and they are likely to be holding off until they hear more regarding a decision on the Planning application.

Circular 4/1998 provides information and guidance on the use of conditions in Planning Permissions and it explains that, in cases where outcomes are required to facilitate the implementation of a development and they need the consent or authorisation of a third party, it may be possible to achieve this by attaching a condition that is worded in a negative form, prohibiting any development taking place until the specified action has been taken.

It also refers to case law where it was established that "*the mere fact that a desirable condition, worded in a negative form, appears to have no reasonable prospects of fulfilment does not mean that Planning Permission need necessarily be refused as a matter of law. Thus, while an authority will continue to have regard to all relevant factors affecting a planning application and whether it should be granted with or without conditions, there is no longer a legal requirement to satisfy a reasonable prospects test in respect of any negative condition they may decide to impose*".

In respect of the current application, therefore, even if there were "*no reasonable prospects*" that Scottish Water would allow surface water connection to the combined public sewer, it is considered that the appropriate approach is to attach a negatively-worded suspensive condition that prevents development from commencing until such time as written evidence has been submitted confirming authorisation from Scottish Water.

If it wasn't ultimately possible for the developer to obtain this authorisation but an appropriate on-site surface water system was subsequently devised that didn't result in a substantial change to the approved development, an application would then have to be submitted to either remove or revise the wording of the condition. If the proposal needed to be significantly revised in order to accommodate an on-site system, a fresh application for Planning Permission is highly likely to be needed.

On the basis of the foregoing, and subject to a suitably-worded safeguarding condition and informative note, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above.**