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Notice of Intention by Chris Norman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-200-2061
- Site address: Bearsden Golf Club, Thorn Road, Bearsden, G61 4BP
- Appeal by Robertson Homes and Bearsden Golf Club against the decision of East Dunbartonshire Council
- Application TP/ED/19/0067 for planning permission dated 31 January 2019 refused by notice dated 8 October 2020
- The development proposed: Residential development, landscaping, access and associated works
- Application drawings listed in schedule.
- Date of site visit by Reporter: 19 March 2021

Date of notice: 7 September 2021

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## Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the conditions listed below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, covering the matters described in paragraph 63.

### Preliminary matter

1. The scale and nature of this proposed development is such that it is consistent with the description of development set out in Class 10(b) 'Urban Development Projects' of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. At the time of the registration of the planning application it was not the subject of a screening opinion by the council. I conclude that based upon the characteristics and location of the development, together with its potential impacts, the proposal is not a development that required an EIA. Absence of a formal environmental impact assessment does not mean that I have not considered environmental issues in deciding to allow the appeal.

### Reasoning

2. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan that relates to the site is the East Dunbartonshire Local Development Plan 2017 (the local development plan) and the Clydeplan Strategic Development Plan 2017. No policies in the strategic development plan have been brought to my attention and my decision is based on the policies contained in the local development plan.

3. The 2.6 hectares site is part of Bearsden golf course and is immediately west of the boundary of Old Bearsden Conservation Area and some 1,100 metres from Bearsden Cross. It is allocated as housing site 6.1 in the local development plan and is outwith but adjoins the green belt around Bearsden. The adjacent and more recently constructed houses at 45-51 Thorn Road are served by a cul-de-sac immediately east of the site and, like the nearby Thorn Park, are within the conservation area. The site is bounded to the north and west by the golf course and would be linked to Thorn Road by a new vehicular access. Thorn Road, Camstradden Drive West and Garscadden Woods, the latter within the City of Glasgow Council's administrative area, form the site's eastern and southern boundaries. Some 466 representations were made to the council on the planning application, 254 of which support the proposal, 206 of which object and 6 are neutral. Following the statutory notification of the appeal to persons who made an earlier representation some 142 further representations have been received, 107 agreeing with the council's decision to refuse the planning application and around 25 supporting the proposal. Bearsden North Community Council, a statutory consultee, objected to the planning application on the basis of road safety, air quality and the over development of the site.

4. The appeal seeks full planning permission for a mix of 67 (initially 65) two-storey residential units, of which 20 would be affordable in tenure and located in the south-eastern part of the site. The mix of house types would comprise 13 houses with six bedrooms, a further 28 houses with 5 bedrooms, 6 houses with 4 bedrooms, 6 houses with 3 bedrooms and 2 houses with 2 bedrooms. There would also be 8 'cottage flats' with 2 bedrooms and finally 4 'cottage flats' with 1 bedroom. The built part of the development would be augmented with landscaping, including some 2,838 square metres of open space described by the appellant as being within 2 defined areas which would accommodate underground drainage facilities. The appellant has submitted that the proposed development could potentially house some 161 residents.

5. The appeal proposal is part Bearsden Golf Club's strategy which seeks to safeguard the club's future by disposing of land for housing that, in turn, could facilitate the upgrading of the golf course. The greater part of the golf course and the club house would be retained following the implementation of the proposed development. To the club the site is the most suitable land for disposal and could allow a redesigned course to include 9 holes, a coaching area and a practice green. The appellant submits that the golf club's financial receipt from the sale of the land would safeguard its future. Parties supporting the application see this as a reason why I should allow the appeal.

6. In 2019 the council refused the planning application for an extension to the golf course and that decision addressed an objection made by SportScotland. The proposal was subsequently allowed by appeal PPA-200-2059 on 17 December 2020. To address these concerns the golf club would agree to entering into a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) which would require that contracts are in place for the formation of the replacement golf course prior to the commencement of any residential development. SportScotland would normally seek delivery of the replacement facility prior to the new development commencing and I refer to this matter in detail in paragraph 63(i). Subject to the planning obligation being in place the decision on appeal PPA-200-2059 counters the council's seventh reason for refusal.

## The development plan

7. The council's seven reasons for refusing the planning application make reference to six policies in the local development plan. Additionally policy 6 of the local development plan 'Creating Inclusive and Sustainable Communities' allocates the appeal site as housing site 6.1, subject to ten 'key requirements' and with an indicative capacity of 40 units. Consequently, having regard to the provisions of the development plan, in my assessment of the appeal, I must assess the proposal against each of the six policies referred to by the council in its notice refusing the planning application, the ten key requirements and any other relevant policy.

8. Local development plan policy 2 'Design and Placemaking' and its associated supplementary guidance (SG) require me to determine whether the proposed density, taking into account the extent of useable garden ground, ensures that the development would have a positive impact on the character, function and an amenity of the surrounding area. To accord with policy 4 'Sustainable Transport' the proposal must have acceptable access to public transport and not adversely impact on the Air Quality Management Area at Bearsden Cross. Policy 6 'Creating Inclusive and Sustainable Communities' sets out the 'key requirements' for the site's housing allocation. I must ascertain whether the proposed layout provides for sufficient open space in accordance with policy 7 'Community Facilities and Open Space'. Policy 9 'Enhancing the Water Environment and Managing Flood Risk' requires the assessment of a development to ensure that it is line with the council's flood risk framework. Policy 10 'Valuing the Historic Environment' requires that I determine whether the design of the proposed buildings would be harmful to the setting of Old Bearsden Conservation Area and the Antonine Wall World Heritage Site. Finally, policy 20 'Developer Contributions' and its supplementary guidance requires that the need for affordable housing, new or improved infrastructure, a public facility and environmental mitigation should be met through developer contributions.

### Policy 2: 'Design and placemaking'

9. Local development plan policy 2 'Design and Placemaking' is accompanied by its related Supplementary Guidance (SG). In summary the policy sets out nine 'Design and Placemaking' principles including the requirement that all developments must be designed to ensure a positive impact on the character, function and amenity of the surrounding area, including compatibility with existing uses. Additionally development must be of high quality, have appropriate linkages and must be sustainable in terms of energy efficiency and construction materials. Developments require to reduce the use of private cars and safeguard heritage and local character. They require to provide a welcoming and safe environment, promote healthy lifestyles and provide for waste storage and collection. The SG contains detailed requirements for a range of developments including new housing. Relevant criteria include housing densities and character, parking, garden size and affordable housing.

10. To the council, in its first reason for refusal, the proposal for 67 units exceeds the site's indicative capacity of 40 units as provided by the local development plan and it is therefore tantamount to the overdevelopment of the site. Additionally, the proposal would have an inadequate amount of usable private garden ground and open space. The additional traffic would adversely impact air quality and specifically the air quality management area at Bearsden Cross. Consequently it is argued that the proposal would have a negative impact on neighbouring properties.

11. I am mindful that the 'indicative' capacity of the site, as described in the local development plan, would be exceeded by 27 additional houses. This matter is the focus of much comment from parties objecting to the proposal. The construction of 67 houses on the 2.6 hectare site would give rise to a housing density of some 33 houses per hectare. This is broadly comparable with housing densities in the surrounding area and commonly seen in urban and suburban settings. I set out in paragraph 34 that, when assessed against policy 6 'Creating Inclusive and Sustainable Communities', the proposal complies with the 'key requirements' prescribed for its housing allocation in the local development plan. It is notable that the allocation provides for an 'indicative' capacity of 40 houses, and this is not a limit. I am also aware that prior to its adoption the 2016 examination into the then proposed local development plan concluded that any increase in capacity at the site would be required to be assessed during the development management process.

12. To the appellant the design and layout of the proposal is informed by the Design and Access Statement (DAS) which accompanied the planning application and identifies opportunities and constraints in the site's development. The DAS identifies pedestrian and vehicular movements and includes an extensive landscape strategy showing peripheral planting, a central open space and a second open area. It is submitted that the proposal responds to the site and its surrounding context, including the properties to the east, the existing surrounding footpath and cycle network and adjacent areas of woodland and open space. To the appellant the benefits of the site's development include the enhanced landscaping around its boundaries; the retention and redevelopment of the golf course; the protection of woodland and wildlife corridors; and improved access to open space. The predominantly two-storey houses would be simple in form, with pitched roofs and traditional fenestration and would reflect that of existing house types to the east.

13. Turning firstly to the effects of the proposal on the character of this part of Bearsden, I have observed the variety of house types and their mix of designs in the vicinity of the golf course, both within and outwith Old Bearsden Conservation Area. As well as traditionally designed houses there are several examples of more recent developments to be seen. For example Thorn Grove, Southview Grove and Golf View are more geometrically planned residential layouts of a higher density and which successfully co-exist within the older house types and street pattern. The wider residential environment around Thorn Road is extensively interspersed with maturing vegetation contributing to a pleasing and physically attractive part of the town. Overall, there is no doubt in my mind that there is not an homogenous pattern of housing styles and designs adjoining and adjacent to the appeal site.

14. I have extensively studied the details of the appellant's DAS and I judge that the attention to detail in the design of the development would, in itself, create a residential environment of a quality comparable with many of the more modern parts of the surrounding area. The appellant submits that the layout has been designed and informed by 'Designing Streets' principles, intended to enhance the environment for pedestrians and cyclists and mitigate against the domination of the private car. Road safety and the impact of the new houses on the local road network is a matter raised by many opposing the proposal. However, the council's Roads Traffic service are content with the site's access from Thorn Road and the levels of car parking that are proposed. Condition 2 would require upgrading of the footway in parts of Thorn Road and condition 8 would assess whether speed restrictions or traffic calming are required.

15. There is no technical evidence indicating that the proposal would adversely impact on wildlife. I have noted the very extensive and high quality landscaping proposals both within the site and around its periphery, and in particular that which is proposed adjacent to and would complement Garscadden Woods.

16. Parties objecting to the proposal point to the adverse impact it would have on their privacy although the council has not argued that the development would be detrimental to the residential amenity of adjoining householders. Residents of 45-51 Thorn Road would lose their open west-facing view over the golf course, although the loss of a view over land belonging to a third party is not a planning matter. Properties at Camstradden Drive West are set in larger plots and at a greater distance from the site. Landscaping around the eastern and southern parts of the site, secured by planning condition 6, would soften the appearance of the new development when viewed from adjacent properties. Despite the proximity and operation of pumping facilities in the south-eastern part of the site there is no objection to the proposal from the council's Community Protection service. Condition 1, requiring approval of the construction methodology, would protect adjoining households from any adverse impacts caused by the building of the development, a matter raised by Bearsden Community Council. Overall I have no evidence that the proposal would adversely impact on the privacy, daylighting and overshadowing of adjoining properties to an unacceptable degree that would justify me dismissing the appeal.

17. The council's second reason for refusing the application is that there is insufficient garden ground for each property, again contrary to policy 2 and the SG. Specifically, the council refers to its required standard of 40 square metres of private garden ground for each bedroom or potential bedroom. It considers that there is a shortfall of around 30-40 square metres of useable garden on "some" albeit unidentified plots. Similarly although "many" properties include garden rooms there is no "allowance" in the SG to justify a reduction in garden ground. I have noted that paragraph 13.3 of the SG prides a detailed definition of 'garden ground' and in assessing this part of the appeal I am mindful that the SG also concedes that, in practice, a requirement for this scale of garden ground cannot always be provided. In this regard the appellant has drawn my attention to other instances in East Dunbartonshire where shortfalls of private open space in new housing developments have been offset by the proximity of existing open space.

18. The well maintained Thorn Park is within a safe and easy walking distance from the site. The presence of this local facility, as well as the ease of access to the adjoining Garscadden Woods, provides enhanced amenity for the residents of the proposed houses. To a considerable degree this minimises any shortfalls of garden ground that otherwise may arise within the development. Additionally, the incorporation of a 'garden room' in the houses reduces any potential need for the use of garden ground for an extension to those properties. Overall, taking into account the proximity of Thorn Park and Garscadden Woods, there is an acceptable provision of private open space within each proposed plot and that there is no tension between the appeal proposal and policy 2 in this regard.

19. I therefore conclude that the proposal, when assessed against policy 2 and its SG, is not tantamount to over development of the site and that it would not have a negative impact on the character, function and amenity of the surrounding area. I consider there to be adequate garden ground in the development and overall I conclude that the proposal is compliant with policy 2 'Design and Placemaking'.

## Policy 4: 'Sustainable transport'

### *Access to public transport*

20. Policy 4 'Sustainable Transport' provides that the council seeks an integrated approach to development, land use and transport. Policy 4 (b) requires that development proposals for "significant travel-generating uses" will not be supported in locations where there is no access to public transport within a 400 metres walk via well-lit, safe and all weather routes that have been designed for all users. Specifically, in its assessment and with reference to the additional 27 houses beyond those 40 houses allocated in the local development plan, there is a lack of public transport facilities within 400 metres. Accordingly, in its fifth reason for refusal, because of the distance from the site to public transport connections at Bearsden Cross to the council the proposal is contrary to policy 4.

21. Bearsden Community Council argue that existing roads adjacent to the site are not suitable for the proposal given the additional number of cars that would use Thorn Road each day which is in an existing congested area. Mains Estate Residents' Association, Mosshead Residents' Association and Baljaffray Residents' Association express concerns about congestion at Bearsden Cross. Very many other parties opposing the development submit that there is insufficient capacity in the local transport infrastructure, that there is only limited parking at Bearsden Station and insufficient capacity on local roads. It is also suggested that traffic problems around the site could arise when football matches are held at Thorn Park.

22. In support of the proposal the appellant argues that the allocated appeal site is in a "sustainable location" and it is accessible to public transport. A 'Transportation Assessment' and 'Bearsden Cross Development Impact Assessment' were both prepared in 2019. The impact of the proposal on the local road network has been examined in some detail and an assessment of existing public transport, walking and cycling facilities has been carried out. It is submitted that, prior to local development plan's adoption, the 2016 examination by Scottish Ministers into the then proposed local development plan concluded that the need for housing in the area outweighed its modest distance from public transport connections. Both of the appellant's assessments conclude that the development would not have a significant detrimental effect on traffic flow and would not cause vehicle queues or delays on the public highway.

23. I am mindful that many of those opposing the development consider that the proposal could give rise to additional delays for drivers at the busy Bearsden Cross road junction. To address this the appellant has prepared a proposal comprising alignment improvements to the junction which would include the widening of inside lanes. A planning obligation between the council and the appellant would require a contribution to allow these works to be undertaken, together with the provision of footway improvements in Thorn Road. Conversely to those parties supporting the development the appellant's road improvement proposals would not only accommodate the development but improve traffic flows at Bearsden Cross. No objections have been made by the council's Traffic, Transport and Roads services.

24. The council has not submitted technical evidence to rebut the appellant's Transport Assessment and Bearsden Cross Development Impact Assessment which both conclude that the proposal would not have a significantly detrimental effect on traffic flow. It is around a 10-15 minute walk from the appeal site to Bearsden Cross with its local shops,

bus stops and other amenities. Bearsden Station is around 1,400 metres from the site and some 17-20 minutes on foot. The appellant has identified four nearby schools and three nursery schools within 1,500 metres of the site. Each of these facilities are closer than the maximum distance which necessitates the provision of free school transport. The principle route to and from the site would be along the well-lit Thorn Road and the council's proposed condition 2 would address necessary road improvements to the pedestrian route to and from Bearsden Cross.

25. Residents of the appeal site wishing to access local amenities and public transport links would do so via Thorn Road, which is a well-lit and attractive tree-lined route, involving only one crossing, east of the point where it meets Thorn Drive. The same route would be used by the majority of drivers. Despite the exceedance, by 27, of the indicative number of houses in the allocated site I conclude that the proposal would not be a "significant" travel generating use. The council has not demonstrated how an additional 27 houses would give rise to an unspecified "significant" increase in traffic. Technical advice from its Roads and Traffic and Transport services raises no objections. Overall I conclude that the site's limited distance to public transport connections and the availability of "active travel" infrastructure to local schools and amenities is such that the proposal would not conflict with policy 4 'Sustainable Transport'.

#### *Air Quality*

26. Again contrary to policy 4, in its sixth reason for refusal to the council, without demonstrating the basis for its reasoning, the proposal "will" result in a significant increase in vehicle movements at Bearsden Cross, which is within an air quality management area. The development would therefore be to the detriment of air quality without sufficient mitigation in the form of measures that specifically support active travel and public transport. The council submits that a more cautious approach is justified noting the close proximity of an existing primary school to Bearsden Cross, and the construction of a new nursery school to the north on Drymen Road. Local residents' organisations argue that air pollution levels at Bearsden Cross are at a "critical" level and this would be increased by vehicles from the proposed development, affecting local residents, shoppers in the centre of the town and children attending the new nursery facilities at Brookwood.

27. Additionally, many representations from persons opposing the development raise issues about air quality and technical details has been submitted by informed objectors. The effects of air pollution, and in particular that of nitrogen dioxide and particulate matter are described and it is submitted that levels at Bearsden Cross in 2019 were almost at the thresholds with national air quality standards. It is argued that the proposal conflicts with the council's 'Air Quality Planning Guide' 2018 and it endangers the health of children and young people

28. The appellant has submitted a report which modelled air quality impacts attributable to exhaust emissions from traffic associated with the development. Dispersion modelling at sensitive receptor locations including Bearsden Cross concluded that the impact of additional exhaust emissions attributable to the development would be negligible and not significant. The assessment and conclusions were verified by the council's Environmental Health service, and, subject to the imposition of condition 7 no objection was raised as the proposal would meet minimum air quality requirements.

29. The local development plan has not imposed a limit on the number of houses that can be built on the site; its indicative capacity of 40 is not a cap. As required by Scottish Ministers in the statutory examination of the local development plan, any intensification beyond the indicative capacity is to be determined during the development management process, which includes my assessment of the appeal. No technical evidence has been submitted by the council either to counter the appellant's case or in order to justify its view that the appeal proposal "will" result in a "significant increase" in vehicle movements at Bearsden Cross, so affecting air quality. Nor has the council provided technical evidence that supports its "cautious" approach in respect of the existing primary school at Bearsden Cross and the new nursery school to the north on Drymen Road and how the proposal "will" effect air quality, contrary to the technical conclusions of its own Community Protection service.

30. I have taken into account the site's relatively close proximity and safe ease of access to local amenities and public transport connections and consider this would not discourage future residents of the proposal to participate in active travel. Clearly the site facilitates active travel in view of its safe and modest distance from Bearsden Cross. I have noted that the council's Traffic and Transport service has no objection to the proposal provided improvement works are implemented on Thorn Road and at Bearsden Cross.

31. The proposal's impact on air quality is an important consideration to many parties. In noting the council's wish for a more cautious approach to this matter, particularly in view of the existing primary school to Bearsden Cross and the construction of a nursery school on Drymen Road, nevertheless no technical evidence has been provided by the council in support of its opposition to the proposal because of air quality. In coming to my conclusion I attach considerable weight to the view of the council's Community Protection service in not objecting to the proposal following its review of the appellant's air quality assessment. I consider that, subject to the imposition of condition 7 the appeal proposal is not contrary to the safeguarding requirements for air quality set out in policy 4 'Sustainable Transport'.

#### Policy 6 'Creating Inclusive and Sustainable Communities'

32. Policy 6 'Creating Inclusive and Sustainable Communities' recognises that to meet the local community's needs and to address imbalances in housing affordability new housing in East Dunbartonshire plays an important role. Access to suitable high quality housing that promotes social inclusion and improves health is therefore recognised as being important to residents of the area. The site's allocation as site 6.1 'Bearsden Golf Course' confirms an "indicative" capacity of 40 units and is subject to 10 "key requirements".

33. I have noted that only the council's seventh reason for refusal refers to the proposal not meeting a specific key requirement, key requirement 'B' relating to the retention of the golf course. No specific argument has been advanced by the council that the proposal conflicts with the other 9 'key requirements'. Specifically, the council's seventh reason for refusing the application was due to what it considers as being the absence of a 'viable' location for the provision of a replacement golf course. I have described above at paragraph 6 the change of circumstances since the council's refusal of planning permission for the appeal proposal, specifically in relation to the extension and refurbishment of the golf course. Key requirement 'G' relates to flooding which I address in paragraph 38 below.



34. On the basis of the evidence that is before me I have found that there no other tensions between the development proposed and the remaining nine key requirements. I find that there is to be adequate landscaping that would be implemented within and around the site, including grassland and woodland planting ; I do not consider that the replacement golf course, which is now the subject of planning permission, would have an adverse impact on the Antonine Wall World Heritage Site; the proposal would not have an adverse impact on the wider landscape, nor any core path or Garscadden Woods. No outstanding issue with contaminated land has been brought to my attention and there is no objection from the council's Community Protection service in this regard. I address flooding issues below and have no evidence before me that would suggest that the proposal would adversely impact on Glasgow Airport's safeguarding zone. I have considered the transport assessment and find it to be acceptable. Accordingly there would be no grounds for me to dismiss the appeal because of the key requirements. I therefore conclude that the proposal complies with local development plan policy 6 'Creating Inclusive and Sustainable Communities'.

#### Policy 7 'Community Facilities and Open Space'

35. Policy 7 'Community Facilities and Open Space' and the Design and Placemaking Supplementary Guidance (SG) provide that within new developments all open space should primarily be provided on-site, in a prominent location and be multi-functional, fit for purpose and support healthy outdoor recreation. To the council, at its fourth reason for refusal, the proposed layout does not provide for sufficient open space, contrary to policy 7 and the SG. The council's fourth reason for refusal states that 60 square metres of multi-functional open space per unit, equating to 4,020 square metres, ought to be provided on site as required in policy 7 and the SG. The council argues that the proposal would provide only around 575 square metres of open space within the development. During my site inspection I observed the site's close proximity and its safe access to both Thorn Park and Garscadden Wood, both well under 400 metres walkable distance from the site. I consider that it is likely that these two areas of open space would invariably be used by persons residing in the proposed development. The council acknowledges that the appellant has proposed to make appropriate contributions towards upgrading off-site equipment, on the basis of there being existing multi-functional open space within 400 metres of the site, as set out in the SG.

36. To the appellant the council is incorrect in its view that only 535 square metres of open space would be provided, taking into account the surface area of the underground SuDS facilities. Rather, it is argued that the proposal provides around 2,838 square metres of useable open space, including that on the surface of two sustainable urban drainage facilities (SUDS), comprising of a central area of 1925 square metres and a smaller area in the south-eastern corner of the site of some 913 square metres. Additionally the appellant would make an off-site developer contribution of some £68,960 to upgrade open space and the nearby green network.

37. Drawing these strands together I consider that the appeal proposal would provide adequate open space for its residents and for the upgrading of related open space to the benefit of the wider community. In line with the council's SG contributions would be made and this is in addition to the openspace shown on the central and south eastern part of the development. I conclude that there is no tension between the proposed development and policy 7 'Community Facilities and Openspace' of the local development plan.

### Policy 9 'Enhancing the Water Environment and Managing Flood Risk'

38. Policy 9 of the local development plan acknowledges the council's responsibilities under the Water Framework Directive and the need to avoid and reduce flood risk, particularly in the context of climate change. Additionally, Key Requirement 'G' of the site's allocation for residential development provides that a flood risk assessment is required, but specifically with regard to the drainage impact on Thorn Park, and that a flood risk assessment was already completed at Golf View. The council's consultation with the Scottish Environment Protection Agency (SEPA) deemed there to be no objection, although initially SEPA recommended the preparation of a flood risk assessment. To SEPA the issue of flooding is a matter for the council.

39. The council advises me that the City of Glasgow Council (CGC) was consulted on the planning application, specifically seeking their comments on flooding although no such response was received. Rather, the council received a response from GCC, but only in respect of the core path in Garscadden Wood. For the avoidance of doubt I sought the views of CGC on flood risk in my procedure notice. Overall CGC, in accordance with its own guidance, advise me that it should only be consulted if the proposed development adversely impacted the Glasgow area in terms of flood risk. Additionally the planning application had no connection to the Drumchapel Surface Water Management Plan project.

40. I am mindful of the appellant's extensive technical drainage calculations submitted as part of the appeal and that are publicly available. I note that an integral part of the proposal is the siting within the appeal site of two underground SUDS storage tanks and that allowance for storage tanks for new developments is recognised in 'Version 4', 2018 of Scottish Water's 'Sewers for Scotland'. The site's SUDS system would be designed to incorporate the requirements of the Construction Industry Research and Information Association (CIRIA) 'SUDS Manual'. The council's technical officers are satisfied about the means of collection, treatment and attenuation of surface water before release. In turn surface water release would be restricted by a hydrobrake at a rate of 7.78 litres per second per hectare, and this is equivalent to a 1 in 2 year greenfield release. An existing ditch adjacent to the site would act as a swale and overall there would be attenuation to the greenfield run-off rate. In effect there would be an improvement of what is presently discharging from the site; to the council there would be no detrimental impact on receiving watercourses.

41. Against this background I am mindful that the swale leading from the appeal site would run in a southerly direction towards Garscadden Wood which, in turn, is adjacent to a watercourse within Glasgow City Council's administrative boundary which has potential to flood. Notably, schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (the 2013 Regulations) requires consultation to be undertaken with any adjoining planning authority, but only where the development is likely to affect land in the district of that authority. In its response to my procedure notice Glasgow City Council has advised me that it would have been appropriate if a flood risk assessment and a drainage impact assessment had been submitted, examining the impact on the receiving watercourse. However, taking account of the appellant's proposed overland flows and discharge rates, the council's technical officials have accepted that the site makes adequate provision for drainage and flooding and condition 13 is recommended to ensure the appellant's measures are implemented as approved.

42. SEPA and Scottish Water do not object to the planning application and the council did not refuse planning permission for the proposal on the basis of Policy 9 of the local development plan. The provision of foul sewer connections is subject to authorisation by Scottish Water in a separate consenting procedure, a matter not regulated by planning controls. I have noted that a drainage impact assessment, relating to foul flows from the site, was provided to Scottish Water by the appellant in relation to the need for authorisation to connect the appeal site to the foul sewer network. Being part of a concurrent procedure it has not been submitted as part of the planning appeal by either the appellant or the council. The capacity within the foul and combined sewer network is a matter between the developer and Scottish Water as and when connections for residential units are sought. Scottish Water has advised me that the impact of the appeal proposal on the wastewater network would be dependent on “bottlenecks” and “capacity issues” downstream of the site. Scottish Water may permit a limited number of foul sewer connections prior to the installation of mitigation measures if there is limited capacity in the wastewater network. Conversely additional connections would not be permitted in locations where the local drainage network is at capacity, and the network’s capacity is considered on a case by case basis. Connections to the foul sewer are a matter for Scottish Water; it is not a matter critical to my planning consideration of the case.

43. Scottish Government Planning Circular 4/1998: ‘The Use of Conditions in Planning Permissions’ notes that some matters are subject to concurrent control under separate, non-planning legislation. The Circular provides that a condition which duplicates the effect of other controls will normally be unnecessary and one whose requirements conflict with those of other controls would be *ultra vires* because it is unreasonable. In other words it would not be reasonable for me to impose a condition limiting the number of residential units on the site that could be built or otherwise occupied until authorisation is allowed by Scottish Water for connections to be made to the foul sewer network. That is a matter between the appellant and Scottish Water, and it would be for the appellant to decide on the phasing of building the development and the releasing of properties for occupation. Failure to reach agreement could limit the extent of the development that would be able to be occupied until such time as there was capacity. Similarly, it is a matter for the appellant to liaise with Scottish Water to address the adoption of the SUDS scheme.

44. In summary, and arriving at my decision, I have carefully taken into account the detailed drainage and flood risk matters that have been brought to my attention, and the views of those opposing the proposal on drainage grounds. In my conclusions of flooding and drainage I have attached considerable weight to the views of SEPA and of the council’s flooding engineer. The council has concluded that, following the implementation of the proposed scheme, there would be an improvement of what is presently discharging from the site and it would not affect land in an area administered by CGC. As such, in accordance with Schedule 5 of the 2013 Regulations, there was no statutory need for the council to consult with CGC in respect of the planning application. The council has addressed the proposal’s compliance with policy 9 of the local development plan in its committee report and it did not refuse the application in flooding grounds. I therefore conclude that, subject to the imposition of condition 13, the appeal proposal is appropriate in flooding and drainage terms, and accords with policy 9 of the local development plan.

#### Policy 10 ‘Valuing the Historic Environment’

45. The council’s third reason for refusing the application is because the “conventional modern design” of the houses would be harmful to the setting of Old Bearsden

Conservation Area. In this regard policy 10 does not support development outwith a conservation area which would impact on its appearance, character or setting; to be supported it requires to preserve or enhance the character on the conservation area. There is no evidence before indicating the presence of any listed building of special architectural or historic interest in the vicinity of the appeal site.

46. Although outwith the boundaries of the designated conservation area in refusing the application the council refers to the modern design of the proposed houses including their gable roofs, roughcast, concrete roof tiles, uPVC fascias and rainwater goods and windows and garage doors. As such it is argued that the proposed design would be harmful to the setting of the adjacent Old Bearsden Conservation Area, contrary to policy 10. Parties opposing the proposal describe its scale not being commensurate with its location adjacent to the conservation area and the historic and archaeological value that the site possesses.

47. I have described above my findings on the mixed character and appearance of the urban form of the western part of Old Bearsden Conservation Area, and in particular the part of the designated area that borders with the appeal site. This southwestern part of the conservation area includes the more recently built houses at 45 - 51 Thorn Road, each incorporating elements of traditional detailing. I also noted the more modern development within the conservation area at Thorn Grove, displaying to a greater or lesser extent traditional architectural detailing, and the attractive mix of less old buildings at Camstradden Drive West, both within the conservation area. The council's SG on Design and Placemaking only refers to new development within conservation areas rather than sites that border such designated areas. Similarly the council's Supplementary Guidance 'Historic Environment' does not refer to new development on the boundary of conservation areas.

48. I have noted that neither Historic Environment Scotland nor the West of Scotland Archaeological Service object to the proposal. Nor has the council, in refusing the application, referred to the proximity of the Frontiers of Rome (Antonine Wall) World Heritage Site or its buffer zones, although this is raised by many persons opposing the development. In order to facilitate the site's development, at key requirement 'B' associated with the site's allocation in the local development plan, any changes to the golf course must protect the Frontiers of Rome (Antonine Wall) World Heritage Site. However there is no key requirement to have similar regard to the conservation area.

49. I have found above that that the design, scale and external finishes of the proposal would provide for an attractive and quality residential development. I conclude that it is not in conflict with policy 10 'Valuing the Historic Environment'.

## **Material considerations**

### *The proposed replacement local development plan.*

50. I am mindful that the council has submitted the modified replacement East Dunbartonshire Local Development Plan 2020 for its requisite examination by Scottish Ministers, although the statutory examination has not, as yet been commenced. Nevertheless because of the age of the East Dunbartonshire Local Development Plan 2017 the council's replacement local development plan is an important material planning consideration. The weight that I can attach to the emerging plan increases as it approaches adoption.

51. In the emerging local development plan, approved by the council in August 2020, the appeal site is allocated for residential development despite the refusal of the application now subject to this appeal, some two months later. In the emerging local development plan there is no reference to the need for an acceptable design or scale of the proposal, nor is reference made to its impact on Old Bearsden Conservation Area, or to air quality. Nevertheless I attach limited weight to the fact that the council has included the site in the replacement local development plan, despite it refusing the appeal proposal.

### *Scottish Planning Policy*

52. Scottish Planning Policy 2014 (SPP) is an important material consideration and sets out national planning policies for the planning system and for the development and use of land. Scottish Planning Policy (SPP) emphasises that development should be located in areas that are capable of being integrated into effective networks for all forms of transport, including walking, cycling and public transport. SPP also identifies a hierarchy of priority that should be given to different transport modes in terms of measures to accommodate their access to a development. Planning Advice Note (PAN) 75 provides additional detailed transport related planning guidance. The proposed development is generally in accordance with current Government policy, as set out in Scottish Planning Policy (SPP) with regard to the ability to integrate the development into existing and planned networks for pedestrians and cyclists along with access to local amenities available at and around Bearsden Cross.

53. SPP refers in turn to the National Planning Framework 3 which supports a catchment-scale approach to sustainable flood risk management. As I have described above I am satisfied that the appeal proposal embodies a precautionary approach to cross-boundary flood risk and flood reduction, in particular by the avoidance of increased surface water flooding by the use of SUDS and a hydrobrake, and by minimising areas of impermeable surfaces. Overall, based upon the views of SEPA, the council's flooding expertise and the appellant's professional advisers, there is no tension between the appeal proposal and the provisions of SPP in respect of managing flood risk and drainage.

### *Consultation responses and public representation*

54. As I set out below there has been extensive representation on the proposal, both supporting it and opposing it. Many of those opposing the development provide detailed technical evidence and, most notably, raising issues concerning air quality and flooding. In my assessment I attach considerable weight to the technical evidence from the council's external and internal consultees on both of these matters.

55. In my determination of the appeal I attach considerable weight to the consultation responses that have been received by the council on a range of technical issues. From within the council no objections are raised by its internal consultees on traffic and transport and roads. Its internal access, sustainability and greenspace services do not oppose the proposal. Similarly there are no internal objections from the council's drainage and flooding advisers.

56. I have studied the extensive representations and the corresponding responses by the council's planning officer. Initially, some 466 representations were made to the council. Of these 254 support the proposal, 206 object and there are 6 that are neutral. Following the statutory notification of the appeal to persons who made an earlier representation an additional 142 representations have been received, some 107 agreeing with the council's

decision to refuse the planning application and around 25 supporting the proposal. I have taken into account and set out my conclusions above on the range of matters expressed by representees on planning policy, the proposal's scale and design, its impact on residential amenity, road safety, flooding and drainage, air quality and the historic environment in arriving at my decision. Matters such as property values and the loss of outlook from existing houses are not material considerations for the purposes of my assessment.

57. In summary, those parties supporting the proposal refer to the site's allocation in the local development plan, the quality of its design, the provision of affordable housing, the beneficial improvements that would be implemented at Bearsden Cross and the contributions that would be made towards education provision. Matters raised relating to the financial benefits that would accrue to the golf club as a consequence of its disposal of the land are not material to my assessment.

58. Matters raised by those opposing the proposal, and which are not part of the council's refusal of the application, question the need for additional houses within Bearsden. It is argued that the local decision of the council to refuse the planning application ought to prevail as being representative of the overwhelming views of the community. Nevertheless the appeal site is allocated as a housing site in the development plan and is a component in fulfilling the council's housing land supply requirements. It is not within but is adjoining the green belt. I am mindful that the refusal of the planning application was by the council, contrary to its officer's recommendation. However statutorily the means of its determination locally does not preclude it from being subject to an appeal. A further common ground of objection relates to the assumed loss of green belt if the development were to proceed. However, the allocated appeal site is not within the East Dunbartonshire green belt, but adjacent to it.

59. Additionally, many parties point to the current limited capacities of local education, transport and health service provision. Objectors are concerned about the loss of openspace and the positive contribution that the land has on the amenity and quality of life in the locality, heightened during the recent periods of lockdown, albeit that the site is currently an active part of the golf course.

60. The appellant has agreed to pay a contribution to allow for an increase in local schools' capacities which would be secured through a planning obligation as I set out below. Increases in the provision of NHS services is a matter for the NHS or the relevant Health and Social Care Partnership. Persons are also concerned about the loss of wildlife but I find that there is no technical evidence to support this view and the development would, in any event, take place on a well maintained part of the golf course.

61. Concerns are expressed about construction noise and, additionally, operational noise from the pumping facilities in the south-eastern part of the site. Those living in the adjacent Camstradden Drive West are concerned that flooding could arise and water could flow towards their lower properties. Noise from the pumping equipment to be located on the site could also be a concern. The council did not refuse planning permission on these grounds. No noise objections have been received from the council's Community Protection service and noise during the construction period would be addressed by condition 1 which requires a construction method statement be approved by the council.

62. I note that, subject to the imposition of planning conditions, there are no objections to the proposal from the council's traffic and transportation service. As I set out above, there

are no grounds to dismiss the appeal on the grounds of flooding, as confirmed by the council's internal advice and this is echoed by the Scottish Environment Protection Agency who do not oppose the proposal. To address education capacity issues the council's education service require a developer contribution towards works at St. Nicholas Primary School, the relevant denominational secondary school and Bearsden Academy.

### **Developer Contributions**

63. In line with policy 20 'Developer Contributions' and the Scottish Government's Circular 3/2012 'Planning Obligations and Good Neighbour Agreements' the appellant and the council agree on the phasing of the development and the requisite developer contributions. Specifically the following matters require to be included in a planning obligation:-

- (i) prior to the commencement of residential development contracts shall be in place for the golf course extension works allowed by appeal PPA-200-2059;
- (ii) the sum of £87,100 towards route corridor improvements to the A81 shall be paid to the council;
- (iii) to allow for increased education capacity at St. Nicholas Primary School, the relevant secondary denominational school and Bearsden Academy a contribution of £263,737 shall be paid to the council;
- (iv) the provision of affordable housing on the site must also be secured by the planning obligation;
- (v) to address the short fall in on-site openspace provision of £48,190 is required towards play space, and a further £20,770 is necessary towards openspace of neighbourhood importance or the green network; and
- (vi) a contribution to allow works at Bearsden Cross to be undertaken, together with the provision of footway improvements in Thorn Road.

### **Overall Conclusion**

64. Because of its allocation in the East Dunbartonshire Local Development Plan 2017, and its location within the settlement boundary of Bearsden, the principle of development on the appeal site is acceptable. I have set out above how the proposal meets the 10 'Key Requirements' of its allocation as housing site 6.1 and I have concluded that its 'indicative' capacity of 40 houses does not impose a cap on house numbers. I have judged that the design, layout and landscaping of the appeal proposal would be appropriate to the area where it is located and would not conflict with policy 2 'Design and Placemaking'. In respect of access to amenities and air quality there is no conflict between the proposal and policy 4: 'Sustainable Transport'. Subject to the satisfactory conclusion of the planning obligation there would be no tension with policy 7 'Community Facilities and Openspace'. The proposal would not conflict with policy 9 'Enhancing the Water Environment and Managing Flood Risk'. Finally I have determined that the proposal would not give rise to conflict with policy 10 'Valuing the Historic Environment'.

65. I have carefully studied the representations that have been submitted by those supporting and objecting to the proposal. I have taken into account the consultation responses received by the council from statutory and non-statutory consultees. Finally I have had regard to Scottish Planning Policy and the status of the proposed replacement local development plan.

66. The council has proposed the imposition of 14 planning conditions and which are acceptable to the appellant. I find that each of the proposed conditions are appropriate and satisfy the terms of Scottish Government Circular 4/1998 'The use of conditions in planning permissions'. The conditions would address several requirements of the local development plan.

67. I therefore conclude, for the reasons set out above, that subject to the matters referred to in paragraph 63 being satisfactorily dealt with, the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

68. I will accordingly defer determination of this appeal for a period of 6 months to enable the relevant planning obligation (either an agreement with the planning authority, or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 6-month period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

*Chris Norman*  
Reporter

## List of conditions

1. Prior to the commencement of works on site a 'Construction Methodology Statement' shall be submitted to, and approved in writing by the planning authority, encompassing the various phases of the development, incorporating a traffic and site management plan. This shall include details of haulage routes, any temporary access route and junction, the site compound office, workers' parking provision, wheel washing facilities, material storage areas and the operation and location of security lights. All appropriate measures arising from the methodology statement shall be implemented prior to the commencement of any development on site.

*Reason:* In the interests of traffic and pedestrian safety.

2. The developer shall provide the missing footway along the southern side of Thorn Road prior to the occupation of the first dwelling, as far as the appellant's ownership and roads adoption allows. The developer shall provide drop kerbs and tactile pavers along the



route shown in Diagram 4.1 of the Transport Assessment Issue 'D'. All works shall be compliant with 'Roads For All' 2013 and be undertaken to the satisfaction of the planning authority.

*Reason:* To maximise accessibility to and from the development by foot to public transport links and shopping areas.

3. Prior to the first occupation of the development a report detailing the provision of passive charge points, including all necessary electrical preparations as well as ducting from the consumer panel to the intended location, shall be submitted to and approved in writing by the planning authority. All works shall comply with all national guidance and standards including BS7671:2018 and the IET code of practice for 'Electric Vehicle Charging Equipment Installation', 3rd Edition. The approved charging points shall be available for use prior to the first occupation of the houses hereby approved.

*Reason:* In order to meet the requirements of Paragraph 275 of Scottish Planning Policy and electrical and construction safety standards.

4. Prior to the completion of the 20th house the improvements to Bearsden Cross as shown on plan PL118 shall be fully implemented.

*Reason:* To offset the impact of the development on the local transport network.

5. The developer shall provide an independently produced review of the Microprocessor Optimised Vehicle Activation (MOVA) system at Bearsden Cross and changes will be undertaken if appropriate to improve operation and make the system compliant with the new layout. There shall also be a recalibration of the system to the agreement of the planning authority. This work shall be completed before the occupation of the 20th house.

*Reason:* To offset the impact of the development at Bearsden Cross.

6. Prior to commencement of the development a scheme for the landscaping of the site shall be submitted to and approved in writing by the planning authority. The landscaping scheme shall include specific details of hard and soft landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), earthworks or earth mounding, schedules of plants noting species, plant sizes, proposed numbers, locations and densities and an implementation programme and minor artefacts and structures (e.g. street furniture, play equipment for trim trail, refuse or other storage units, signs, lighting, etc.). The plan shall be produced in accordance with the preliminary ecology assessment submitted with the planning application and thereafter, the approved scheme shall be implemented in full accordance with the implementation programme set out in said scheme.

*Reason:* In the interests of local environmental quality and to ensure an appropriate level of landscaping and play equipment for the site.

7. For the avoidance of doubt, the works hereby approved and mitigation measures proposed shall be carried out in accordance with the Air Quality Assessment by REC, Ref: AQ107397r1, dated November 2019 and the recommendations therein.

*Reason:* In the interests of local environmental quality and to ensure effective mitigation measures are in place.

8. Prior to the completion of the 33rd dwelling a speed survey on Thorn Road shall be undertaken by the appellant and submitted for the written approval of the planning authority. Any mitigation measures identified by this study shall be fully implemented prior to the completion of the final dwelling.

*Reason:* In the interests of road safety on Thorn Road.

9. The landscaping plan, including SUDS, shall be implemented in full accordance with the approved scheme within the first planting season following completion or occupation (whichever is sooner) of the development hereby approved, or in accordance with a programme first agreed in writing with the planning authority. Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

*Reason:* In the interests of local environmental quality and to ensure an appropriate level of landscaping for the site.

10. Prior to the occupation of the first unit, a report confirming how the development has achieved the sustainability measures set out in policy 15 of the East Dunbartonshire Local Development Plan 2017 will be submitted to the planning authority for approval.

*Reason:* To promote sustainability in new developments.

11. For the avoidance of doubt, the tree protection plans hereby approved shall be implemented in full accordance with the details within them and shall be overseen by the council's arboricultural officer along with a representative from Langton Tree Specialists.

*Reason:* In the interests of local environmental quality and to ensure appropriate protection of the trees in Garscadden Woods.

12. During the periods of construction, all works and ancillary operations which are audible at the site boundary, or at such other places as may be agreed with the council, shall be carried out only between the hours of 08.00. and 19.00. Monday to Friday inclusive; 08.00 and 13.00 on a Saturday and at no time on a Sunday or National Bank Holiday.

*Reason:* In the interests of residential amenity.

13. Prior to the occupation of the first dwelling the drainage scheme and discharge rates shall be fully implemented in accordance with approved plans PL106, PL107, PL116, PL120 and PL121 unless otherwise agreed in writing with the planning authority.

*Reason:* To ensure adequate drainage measures are implemented and to avoid flooding neighbouring land.

14. Prior to the commencement of works on site the archaeological investigations described in the approved Written Scheme of Investigation (PL52) shall be implemented in full. An evaluation report into the findings of this shall be submitted for the written approval of the planning authority prior to work commencing. Thereafter any mitigation measures or further investigations required by this report shall be implemented in full.

*Reason:* To ensure that any archaeological remains that may be present on the site are fully investigated.

### **Schedule of Approved Plans**

BCG-ARC-001 Location Plan  
 18-AL-B-11(ET) Floor plans, Alexander 18 (ET)  
 18-AL-B-11(MT) Floor Plans, Alexander 18 (MT)  
 18-BR-B-11 Floor Plans Brasini Base 18  
 18-EV-G-11 Floor Plans Everett Grand 18  
 18-EV-GR-11 Floor Plans Everett Garden Room 18  
 18-HU-G-11 Floor Plans Hutton Grand 18  
 18-HU-GR-11 Floor Plans Hutton Garden Room 18  
 18-LA-G-11 Floor Plans Lawrie Grand 18  
 18-LA-GR-11 Floor Plans Lawrie Garden Room 18  
 18-LE-G-11 Floor Plans Leonardo Grand 18  
 18-MA-G-11 Floor Plans Mackintosh Grand 18  
 18-MA-GR-11 Floor Plans Mackintosh Garden Room 18  
 18-MI-G-11 Floor Plans Mitchell Grand 18  
 18-MI-GR-11 Floor Plans Mitchell Garden Room 18  
 18-MU-B-11 Floor Plans Murray  
 18-NA-G-11 Floor Plans Nasmyth Grand Garden Room 18  
 18-NA-GR-11 Floor Plans Nasmyth Grand Garden Room 18  
 18-ST-B-11 Floor Plans Stewart  
 18228-100-103 Levels Layout sheet 1 of 2  
 18228-100-104 Levels Layout sheet 2 of 2  
 18228-500-100 Drainage Layout sheet 1 of 2  
 18228-500-101 Drainage Layout sheet 2 of 2  
 95.50.01a Landscaping layout sheet 1 of 4  
 95.50.02a Landscaping layout sheet 2 of 4  
 95.50.03a Landscaping layout sheet 3 of 4  
 95.50.04a Landscaping layout sheet 4 of 4  
 Design and Access Statement  
 Landscaping Strategy  
 PAC Report  
 Written Scheme of Investigation  
 Accommodation Schedule  
 18-BR-B-06.01 Brasini Base 18 Elevations EO1 Standard  
 18-AL-B-06.01 (ET) Alexander 18 (ET) Elevations – ERO1 Standard  
 18-AL-B-06.01 (MT) Alexander 18 (MT) Elevations – ERO1 Standard  
 18-EV-G-06.01 Everett Grand 18 Elevations EO1 Standard  
 18-EV-G-06.02 Everett Grand 18 Elevations EO2 Feature 1  
 18-EV-GR-06.01 Everett Garden Room 18 Elevations EO1 Standard  
 18-EV-GR-06.02 Everett Garden Room 18 Elevations EO2 Feature 1  
 18-EV-GR-06.03 Everett Garden Room 18 Elevations EO3 Feature 2

PL106

PL107

PL116

PL120

PL121