

Development Management Sub Committee

Wednesday 17 June 2015

Application for Planning Obligation 15/00904/OBL At Land Adjacent To, Freelands Road, Ratho Application for the discharge of Planning obligations.

Item number	5.2
Report number	
Wards	A02 - Pentland Hills

Summary

The applicants' justification for the modification of the proposed 'transport infrastructure works' clauses together with a further financial contribution, in lieu of some of those works, would not have any detrimental impact on the road safety within the vicinity of the development site, and is accepted.

Links

Policies and guidance for this application	LPRW, RWE35, RWTRA2, RWTRA5, RWIMP2, NSG, NSDCAH,
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Report

Application for Planning Obligation 15/00904/OBL At Land Adjacent To, Freelands Road, Ratho Application for the discharge of Planning obligations.

Recommendations

1.1 It is recommended that this application be Granted subject to the details below.

Background

2.1 Site description

The Freelands Road application site covers approximately 9.6 hectares of grassland/agricultural land located to the north of the Union Canal on the eastern side of Baird Road.

The site is presently under development for housing in accordance with the relevant grant of planning permission.

This application relates to parts of the local road network in close proximity to but outwith the application site. Specifically these relate to the traffic light controlled narrow bridge taking Baird Road over the Union Canal and, further to the south, that section of Main Street between the junction of Baird Road/Main Street with Ratho Park Road, to the east, and the junction of Main Street with School Wynd and Dalmahoy Road, to the west.

This application site is located within the Ratho Conservation Area.

2.2 Site History

The relevant site history is:

2 July 2010 - Planning permission was granted for the erection of 119 residential properties (including 19 affordable houses), a 60-bed residential care home and a new canal basin, together with associated changing block (reference 09/01067/FUL).

8 June 2012 - Planning permission was granted for alterations to plots 92-100 with an amended design for the houses resulting from the road level being raised to accommodate storm water storage (reference 12/00787/FUL).

4 January 2013 - Planning permission was granted for the erection of 14 residential properties on the site formerly consented for the development of a residential care home (reference 12/02322/FUL).

2 August 2013 - Permission was granted for a non material variation comprising alterations to; the two affordable housing blocks, the car park at the Baird Road end of the site and details of the location of the pontoons within the canal basin (reference 09/01067/VARY).

Main report

3.1 Description Of The Proposal

The application is for the modification or discharge of a planning obligation, under the provisions of section 75 of the Town and Country Planning (Scotland) Act 1997, comprised of; the deletion of some clauses and the modification of others including an additional financial contribution of £10,000, all relating to the off-site, 'transport infrastructure works' clauses.

Those clauses require:

5. *Transport Infrastructure Works.*

5.1 *Declaring that prior to commencement of Material Operations, the Proprietors shall make applications to the Council for the necessary Traffic Regulation Orders and road permits to the extent required to execute the works referred to in Clauses 5.2.*

5.2 *Subject to the issue of the Traffic Regulation Orders referred to in Clause 5.1 the Proprietors shall within three months of the issue of the said Traffic Regulation Orders carry out all engineering works (other than those to implement the speed table) as shown on drawing "P263600/SK07 rev A (Grontmij)" ("Drawing") annexed and executed as relative hereto, which said engineering works shall be carried out to the satisfaction of the Council's Director of City Development. Declaring that all costs associated with the said engineering works shall be met in full by the Proprietors.*

5.3 *Approval to the works to install two bus stops with appropriate shelters and a speed table referred to later in this clause is to be applied for and regulated in terms of the Council's Occupation Permit process. The Proprietors shall (i) install two bus stops, with appropriate shelters, at such location on Baird Road as shall be confirmed by the Council's Director of City Development and (ii) implement the speed table shown on the Drawing prior to the first occupation of any Market Housing.*

5.4 *The Proprietors will apply to the Council to Stop Up Freeland's Road at its junction with Baird Road before they Commence Development and will meet the costs associated with the relevant Stopping Up Order up to a maximum of TWO THOUSAND POUNDS (£2,000.00) STERLING.*

The engineering works shown on the drawing include:

- widening Main Street, to 8.5 metres in width, along that 40 metre section, fronting Nos 52 to 64 Main Street; to allow two-way traffic to pass parked cars, including existing waiting restrictions reapplied at the new kerb line;

- proposed double-yellow line waiting restrictions along a 25 metre section of road, fronting Nos 42-46 Main Street the Ratho Bowling and Recreation Club; and
- a raised table at the junction of Baird Road/Main Street with Ratho Park Road, including the provision of double-yellow line waiting restrictions along a 45 metre section of the inside of the corner at the junction.

The applicant seeks modifications including:

- not implementing the proposed road widening works;
- reducing the waiting restrictions to Monday to Friday between 8am and 6pm, loading restrictions to peak hours and no restrictions on Saturday or Sunday; and
- not implementing the raised table, but alternatively re-surfacing with an anti-skid surface in a contrasting colour; those works include implementing the same reduced waiting restrictions and to an additional 33 metre section of the road on the eastern side of the junction.

As a consequence of these changes the applicant also proposes to make a further financial payment of £10,000, being the amount that it calculates it would have expended on fulfilling those clauses. The financial contribution to be used for the Council's works to pavement improvements in the vicinity of the traffic lights on Baird Road at the Union Canal Bridge.

There are no other proposed modifications or discharge of any of the remaining financial contributions or provisions comprised in the original legal agreement proposed by the applicant.

3.2 Determining Issues

There are no determining issues.

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- (a) the modification and discharge of the agreement, as proposed, is considered to be acceptable;
- (b) the proposals have any equalities or human rights impacts; and
- (c) comments raised have been addressed.

a) The Modification and Discharge of the Agreement is Acceptable

The purpose of a planning obligation is to enable the Council when determining a planning application, to enter into such an obligation restricting or regulating that development or use of the land; and that obligation may not be modified or discharged except by agreement between the planning authority and a person against whom that obligation is enforceable, under the provisions of section 75A of the Town and Country Planning (Scotland) Act 1997, as amended.

Planning permission was granted, based on the requirements for certain off-site improvements to the local public road network, so as to improve capacity to accommodate the additional traffic movements generated by the proposed residential development.

The applicants' proposed modifications are therefore required to be considered against the provisions of the development plan, as interpreted using the non-statutory guidance on 'Developer Contributions and Affordable Housing', and against the provisions of the five tests, as set out in paragraph 14 of Scottish Government Circular 3/2012, 'Planning Obligations and Good Neighbour Agreements'.

The applicant has undertaken pre application discussions with the Council's Transport section in identifying the proposed modification. Transport has raised no objections in road safety terms.

The proposed changes represent a pragmatic approach to resolving the relevant road safety issues and they comply with the relevant policy and guidance provisions in this instance.

Accordingly, the proposed modifications of the relevant clauses contained in 'section 5' of the planning obligation can be agreed and therefore the application should be approved.

b) Equalities and Human Rights Impacts

This application has no impact in terms of equalities or human rights.

c) Public Comments

No representations were received concerning this proposal.

Conclusion

In conclusion, the applicants' justification for the modifications of the obligation is accepted and accordingly the application should be approved.

It is recommended that this application be Granted subject to the details below.

3.4 Conditions/reasons/informatives

Financial impact

4.1 The financial impact has been assessed as follows:

If the obligation is modified and discharged then some works within Main Street, Ratho, would not be carried out by the developer but instead a further financial contribution of £10,000 would be provided to the Council for pavement improvements at the traffic lights on Baird Road, at the Union Canal bridge.

Risk, Policy, compliance and governance impact

5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application, to modify and discharge an obligation, has been notified in accordance with the provisions of Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

No representations have been received.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Edinburgh City Local Plan and Rural West Edinburgh Local Plan](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)

- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development
Plan Provision**

Rural West Edinburgh Local Plan - Within the Ratho Settlement Boundary and designated Conservation Area.

Date registered

9 March 2015

Drawing numbers/Scheme

01-03,

Scheme 1

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Links - Policies

Relevant Policies:

Relevant policies of the Rural West Edinburgh Local Plan.

Policy E35 states that developments in Conservation Areas will only be permitted where all features which contribute to the special character and appearance of the areas are retained.

Policy TRA2 states that proposals will not be permitted where it would have an unacceptable impact on the existing road network; public transport operations; air quality; road safety, residential amenity and walking and cycling.

Policy TRA5 says that the Council will support traffic management measures which seek to create a safe and attractive environment, particularly in towns and village centres and residential areas.

Policy IMP2 says that agreements between developers and the Council must be place to secure the key items included in Schedule 2 of the Action Plan prior to the granting of planning consent.

Relevant Non-Statutory Guidelines

Non-statutory guidelines on Developer Contributions and Affordable Housing gives guidance on the situations where developers will be required to provide affordable housing and/or will be required to make financial or other contributions towards the cost of, providing new facilities for schools, transport improvements, the tram project, public realm improvements and open space.

Appendix 1

Application for Planning Obligation 15/00904/OBL At Land Adjacent To, Freelands Road, Ratho Application for the discharge of Planning obligations.

Consultations

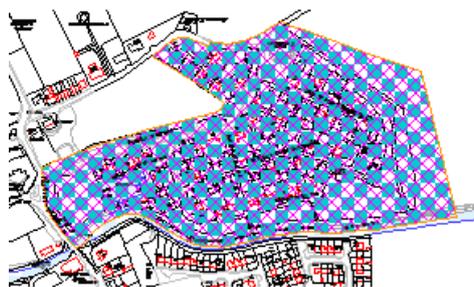
Transport

Has no objection to the application subject to the applicant entering into a suitable legal agreement to provide the sum of £10,000 towards improvements to the traffic signals on Baird Road at the Union Canal.

Note:

It is understood that the applicant Would continue to carry out works under the Section 75 Agreement and, therefore, the obligations under the Agreement cannot yet be considered fully discharged.

Location Plan



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