

# Community Information Summary

Land to west of Napier Avenue, Bathgate, EH48 1DL



# **The Overall Site**

1. The proposed development area - was Common Good and should not have been sold.

2, The smaller triangular piece of land just above the existing memorial, and below the development site, has very recently been designated as Common Good.

3. The Cairn



# The Cairn

THE GREAT WAR  
THE PASSAGE OF THE  
BATHCABE WAR MEMORIAL  
DEDICATED TO THE SOLDIERS  
ON 11.11.1918 BY THE  
MAYOR

REMEMBER

**Standing on new  
Common Good Land  
looking towards  
the development area**



# **The Proposed Development Area**









**Likely  
Access  
Routes**

**1  
Off  
Academy  
Place?**

**2  
up Simpson  
Crescent?  
(past  
Veteran  
Cottages)**



**3  
Off  
Glebe Road  
across  
burn  
and  
parking  
spaces?**

# 1 - off Academy Place?



# 1 - off Academy Place?



# 1 - off Academy Place? - services on ground at this entrance





# 2 – up Simpson Crescent? (past Veteran Cottages)



## 2 – up Simpson Crescent? (past Veteran Cottages)



### 3 – Off Glebe Road? (across burn and parking spaces?)



### 3 – Off Glebe Road? (across burn and parking spaces?)



**WHAT DID THE  
REPORTER SAY?**

# Notice of Intention – reference detail extract

Notice of Intention by Gordon S Reid, a Reporter appointed by the Scottish Ministers

Planning appeal reference: PPA-400-2163

Site address: land to west of Napier Avenue, Bathgate, EH48 1DL

Appeal by TM Land Purchases Limited against the decision by West Lothian Council

Application for planning permission in principle 1177/P/22 dated 16 December 2022

The development proposed: residential development with associated works

Application drawings: listed in schedule

Date of site visit by Reporter: 9 April 2024

# ON WHAT BASIS DID REPORTER MAKE DECISION?

## *brief summary*

I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise.

Having regard to the provisions of the development plan, the determining issues in this appeal are:

- the principle of development,
- effects on protected species
- and impact of the proposed access.

# **ON WHAT BASIS DID REPORTER MAKE DECISION?**

## ***Principle of Development (summary)***

The appeal proposal is located on land allocated in the LDP (Local Development Plan) for 10 residential units (site reference H-BA 5).

Concerns are raised by the council and in representations in relation to the overdevelopment of the site. Whilst the appellant has submitted an illustrative layout, the description of the appeal proposal does not include and therefore seek approval for a specific number of units for the site at this time.

I am satisfied that the total number of units to be accommodated within the appeal site can be appropriately determined through the approval of matters specified in conditions by the council.



# ON WHAT BASIS DID REPORTER MAKE DECISION?

## *Effects on Protected Species (summary)*

The appeal site is not covered by any local or national designations in relation to wildlife, trees, biodiversity or open space. However, concerns have been raised by the council in relation to the potential impact on protected species from the appeal proposal and to the timing of some of the surveys in the appellant's ecological appraisal.

The appellant's preliminary ecological appraisal concludes there is no evidence of protected species (including badgers) within the appeal site. Some potential for bat roosting in the mature beech trees along the northern boundary was identified. However, this would only be affected if works to the trees were to be undertaken or the trees removed. No other potential effects on protected species were identified by the appraisal.

If works were to be carried out to the trees a climbing survey by a licenced bat ecologist and erection of bat boxes within these trees should be undertaken. It was also recommended that with regard to breeding birds, all vegetation clearance should be out with the breeding season and that the appeal proposal should include suitable hedgehog habitat. The appellant has advised in its Biodiversity Statement that the mature beech trees along the northern boundary would be retained with further planting to reinforce the biodiversity of this area.

# ON WHAT BASIS DID REPORTER MAKE DECISION?

## *Impact of Proposed Access (summary)*

Concerns were raised that the proposed access arrangements, for a larger number of houses than allocated in the LDP, would not be appropriate. The resultant increased level of traffic would have an adverse effect on the amenity of residents in the surrounding area (including Crosshill Drive) re traffic impact, road safety and parking.

LDP Appendix 2 under the transportation heading states that the appeal site is to be accessed from Glebe Road with a secondary emergency vehicle access from Wallace Road. The appellant contends that the proposed access arrangements accord with these requirements. The council's transport section raised no concerns in relation to the principle of the proposed access arrangements subject to detailed matters being agreed through conditions.

Despite the concerns raised I have no substantive evidence before me to demonstrate that there are any technical issues with regard to the layout or capacity of the existing road network that would prohibit the accommodation of some level of additional traffic.

In the absence of the specific numbers of houses to be developed and the related assessment of the impacts of the additional traffic onto the surrounding road network, it is not possible at this stage for me to fully determine what, if any, potential adverse effects might occur.

# WHAT CONDITIONS DID REPORTER APPLY?

In this particular appeal the reporter has issued a notice stating their intention to grant planning permission subject to the conclusion of a planning obligation to secure affordable housing, and financial contributions towards education, play area/open space, cemetery provision and public art. Subject to these matters being addressed the reporter's decision would then be issued.

*The formal decision will be issued 12 weeks from the date of the reporter issuing their intention (9th May).*

***Formal reporter's decision was due 1<sup>st</sup> August. They have asked for an extension until end August.***

**The reporter confirms in his notice of intention that the appeal proposal is located on land in the LDP for 10 residential units and that whilst the appellant had submitted an illustrative layout, the reporter has not approved a specific number of units for the site at this time.**

**This matter will be for the local planning authority, in the first instance, through a further application.**

# **WHAT OPTIONS ARE THERE TO APPEAL AGAINST REPORTER?**

**‘There is no formal provision for further community involvement at this late stage in the appeal process’.**

**‘Once the decision is issued the normal right of appeal to the Court of Session, on a point of law, would apply.’**

# **WHAT DOES THE WEST LOTHIAN LOCAL DEVELOPMENT PLAN SAY?**

Formally adopted 2018.

New version being developed this year and next.

## CURRENTLY ACTIVE WEST LOTHIAN LOCAL DEVELOPMENT PLAN – NAPIER AVENUE DEVELOPMENT ASSUMPTION (extract)

HOUSING			
LDP Site Ref	Location	Site Size (Ha)	Capacity
H-BA 1	Balmuir Road (Former Woodthorpe Garden Centre)	0.8	11
H-BA 2	Wester Inch (land to east of Meikle Lane)	1.8	70
H-BA 3	Standhill (Site A), Inchcross Grange	3.8	177
H-BA 4	Standhill (Site B)	10	20
H-BA 5	Napier Avenue	3.2	10
H-BA 6	Easton Road/Balmuir Road (Sibcas Site)	12.8	298

# Local Development Plan extracts

## Extract 1

*“Important to note that without the necessary infrastructure requirements having been satisfactorily addressed, the council will be unable to support development proposals”*

## Extract 2

*“The scale, layout and design of any proposed buildings shall be appropriate to the character of the site and the surrounding area and shall not adversely impact on any special historic, environmental assets, natural heritage designations or landscape interests”*



**WHAT DOES THE  
BATHGATE LOCAL PLACE PLAN  
SAY BASED ON  
COMMUNITY VIEWS?**

# **Bathgate Local Place Plan Extract**

“Significantly slow or stop further development in and around Bathgate until the infrastructure is in place to support it (e.g. doctors, dentists, schools).

This includes new developments, and those that have already come forward but do not yet have detailed planning approval”

**THIS IS THE YEAR WHEN  
WE ARE BEING  
CONSULTED ABOUT  
DEMOCRACY IN OUR  
LOCAL COMMUNITY**



## **Democracy Matters Aims**

“National and Local Government want to empower Scotland’s different places and diverse communities to shape their own futures. Devolving more power to more local levels and into the communities that you live and work in.”

**COMMUNITY AND  
COUNCILOR  
SUGGESTIONS  
FOR ACTION**

# **Raise Awareness**

## **1. Contact local and national newspaper reporters incl:**

- Local newspaper photographer Stuart
- political editor [ian.swanson@scotsman.com](mailto:ian.swanson@scotsman.com)
- Jacob F. Farr Edinburgh Live online journalist – offered to support

## **2. Protest picnic** on the site, raising awareness, and news coverage. *It might encourage more people to come if we did it like that? We could have a few speakers who could talk about what the land has meant historically and for local wildlife etc. Maybe some World War poems to honour those whose ashes were scattered. Dare I suggest some songs? Maybe Condor Films would film some of it? And we could send it to the powers that be, or put it online. Anything to show what it means to people. And at the very least, it would honour this place in some way.:*

## **3. Condor make a film** about it and share to encourage local community opposition

## **4. Contact BBC**

## **5. Public Meeting** called by Bathgate Community Council

# **UNDERSTAND HOW WIDESPREAD AN ISSUE AND POLITICALLY CHALLENGE**

## **Check how widely this is happening**

- 1. Contact other community councils** to see if anyone else has the same experience
- 2. FoI Request** information on the percentage approvals the Reporter has approved the planning.

## **Politically Challenge**

- 1. Write to Fiona Hislop** in large numbers – community voices
- 2. Speak to Fiona Hislop** – does Fiona have the right to call it in and stop it?
- 3. Speak to Kirsteen Sullivan**
- 4. Attend Council Meeting** in large numbers – ask for this to be public.

## **Legally Challenge**

1. Challenge to sale - The length of time and historic land use may even have rendered it "**inalienable Common Good**" requiring **Court of Session** approval of the sale. Can we challenge on this basis?

## **Financially Challenge**

1. Request current financial position of Common Good Fund and **investigate land buy back. Money should still be held for Common Good community use.**



## **Cap houses to restrict impact - once planning application is received**

**Refer to current (active) LDP** which states many times we should restrict/stop development until infrastructure is in place to support additional housing-  
quoting extract from LDP:

*“Important to note that **without the necessary infrastructure requirements having been satisfactorily addressed, the council will be unable to support development proposals**”*

*“The scale, layout and design of any proposed buildings shall be appropriate to the character of the site and the surrounding area and shall not adversely impact on any special historic, environmental assets, natural heritage designations or landscape interests”*

## Cap number of houses / call in the application when it is submitted:

*DPEA reporters are appointed by the government of the day but make decisions independently of that government and in line with Local Development plans and other planning policy.*

*There is still the possibility that any detailed planning application will have to come before the Development Management Committee again. **While elected members would not be able to apply a cap on numbers, they would be able to consider numbers in terms of the acceptability of the detailed layout.** There would have to be an objection from the community council, more than 15 objections or be referred in to the committee by an elected member.*

## **Honour LPP community request about restricting development,**

quoting the following extract from the registered LPP:

**Significantly slow or stop further development in and around Bathgate until the infrastructure is in place to support it (e.g. doctors, dentists, schools).**

**This includes new developments, and those that have already come forward but do not yet have detailed planning approval.**

Rebalance infrastructural needs to more than the current inadequate and basic level. Medical facilities are insufficient. Schools are stretched. Dentists are not accepting any new patients etc **As WL Local Development Plan outlines many times, development cannot increase until the right infrastructure is in place.**

**COMMON GOOD**

Common good assets are the heritable (land and buildings) and moveable (paintings, furniture, chains of office etc.) property that belonged to the Burghs of Scotland. Under local government reform in 1975 Burghs and Town Councils were abolished and replaced by District and Regional Councils. In 1996 further reform introduced unitary authorities. Common good assets were subsumed within these local government reforms and placed under the stewardship of these new bodies.

This property and the funds associated with it are an important part of the cultural heritage of many towns across Scotland and provide significant resources for the economic, social and environmental development of these communities. They form part of a spectrum of common property resources which includes, among others, the Crown Estate (seabed and foreshore), commonties, community owned property, land held in trust for the nation, drovers' stances, village greens and the cultural artefacts associated with burgh history.