

Development Management Sub Committee

Wednesday 9 May 2018

Application for Planning Obligation 18/01206/OBL At Site 80 Metres West Of 4, Ferrymuir, South Queensferry Discharge of Planning Obligation

Item number	4.3
Report number	
Wards	00 - No Ward Number

Summary

It is confirmed that the legal obligation attached to the 2013 application has been superseded by the legal obligation attached to the 2014 application and that the applicants' request for the discharge of the obligation attached to the 2013 application can therefore be accepted.

Links

[Policies and guidance for this application](#)

Report

Application for Planning Obligation 18/01206/OBL At Site 80 Metres West Of 4, Ferrymuir, South Queensferry Discharge of Planning Obligation

Recommendations

1.1 It is recommended that this application be accepted and the agreement be discharged

Background

2.1 Site description

The development site is located to the south east of Ferrymuir and is bound to the south and west by the A90 and to the north and east by the B800, formerly the A8000. Both the A90 and B800 are located at a level above the site. The boundary with the B800 is comprised of a steep shrub planted embankment, sloping into the site.

Vehicular access to Ferrymuir is from the roundabout junction with Kirkliston Road, on the B800.

To the north is a supermarket, petrol filling station, restaurant, fast food outlet and hotel.

Beyond the B800, the land use is principally residential with office development to the south east. Beyond the A90 is farmland within the Edinburgh Green Belt.

2.2 Site History

The relevant site history is:

28 September 2010 - planning permission in principle was granted for a mixed use development comprising; office use, a care home, residential development, a leisure unit, and community facility (application reference 09/00490/OUT).

10 May 2012 - Land subject to temporary compulsory purchase, for the period of one year, in order to accommodate ancillary infrastructural works associated with the new road bridge over the Firth of Forth.

13 January 2015 - Permission was granted to vary conditions 1(a) and 1(b) of the existing planning permission in principle to extend for a further 3 years, the period within which applications for the approval of matters specified in conditions (AMCs) are to be submitted and to permit an additional 2 years for the final AMC approved work to be commenced (application reference 13/04029/FUL).

13 January 2015 - A legal obligation was concluded for this variation application to the original planning permission in principle.

01 December 2015 - Planning permission was granted for the detailed development of the site for 143 houses and flats (including 25% affordable homes) and a community facility (application reference 14/04172/FUL).

01 December 2015 - A legal obligation was concluded for the detailed planning application.

Main report

3.1 Description Of The Proposal

The application seeks the discharge of the planning obligation, made under the provisions of section 75 of the Town and Country Planning (Scotland) Act 1997, regarding the Ferrymuir development site (reference 13/04029/FUL) and concluded with the Council on 13 January 2015.

3.2 Determining Issues

Section 75A(1)(a) of the Town and Country Planning (Scotland) Act 1997 states - A planning obligation may not be modified or discharged except, by agreement, between the planning authority and a person against whom that obligation is enforceable.

In determining such an application for the modification or discharge of a planning obligation, the specific provision should be considered against the five policy tests set out in Planning Circular 3/2012. These tests relate to: necessity, planning purpose, relationship to the proposed development, relationship to scale and kind and reasonableness

3.3 Assessment

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

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

a) The Discharge of the Obligation is Acceptable

The planning records confirm that the 2015 permission to vary the original planning permission in principle for the development of the site, and its associated section 75 obligation, has not been implemented by means of the submission of an AMC application within the 2 year time period. That permission has therefore lapsed.

They also confirm that that permission was superseded in full by the grant of detailed planning permission for the development of the site, together with its separate section 75 obligation, by the same developer on 01 December 2015. That permission has been implemented on the site.

Accordingly, the proposed discharge of the planning obligation is appropriate and can be agreed in this instance.

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.

d) Finance

If the obligation is discharged, there would be no financial implications.

The associated grant of planning permission has lapsed and therefore the provisions of the obligation have now fallen.

Also, similar provisions; for on-site affordable housing, and education contributions, were incorporated into the later legal obligation associated with the 2014 application for this site. That development is presently under construction on site.

Conclusion

In conclusion, the applicants' request for the discharge of the legal obligation attached to the 2013 application is acceptable.

It is recommended that this application be accepted and the agreement be discharged

3.4 Conditions/reasons/informatives

Financial impact

4.1 The financial impact has been assessed as follows:

If the obligation is discharged there would be no financial implications to that decision.

The associated grant of planning permission has lapsed and therefore the provisions of the obligation have now fallen.

Also similar provisions were incorporated into the separate legal obligation associated with the later detailed application for this site.

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

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

The application, to modify and discharge an obligation, is required to be notified to any other parties to the original agreement, in accordance with the provisions of Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

The necessary notifications were carried out under the Regulations and no representations have been received.

Background reading/external references

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

**Statutory Development
Plan Provision**

Edinburgh Local Development Plan - Urban Area.

Date registered

21 March 2018

Drawing numbers/Scheme

,

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Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

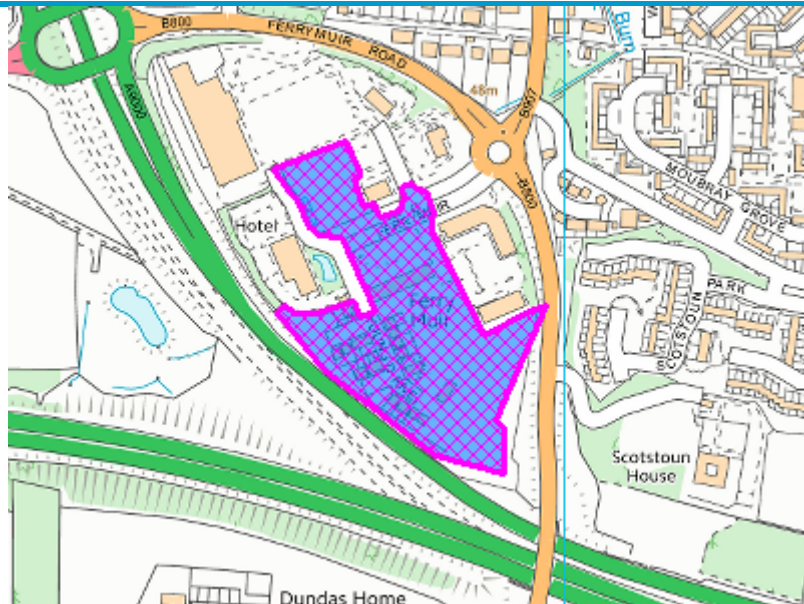
Appendix 1

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Consultations

No consultations undertaken.

Location Plan



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