

## Development Management Sub-Committee of the Planning Committee

1.00 pm, Wednesday 12 May 2021

### Present:

Councillors Gardiner (Convener), Booth, Mary Campbell, Gordon, Griffiths, Mitchell, Mowat, Osler, Rose, and Ethan Young.

### 1. 34 Cramond Road North Edinburgh (Land Adjacent to Former)

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At the Development Management Sub-Committee meeting on 24 February 2021, reconvened from 17 February 2021, Committee agreed to continue an application for planning permission at 34, Cramond Road North, Edinburgh, to be by means of a hearing at a future Development Management Sub-Committee. The application for planning permission at 34, Cramond Road North, Edinburgh was a Section 42 application to vary condition 1 of planning permission reference 13/01843/FUL (which modified consent 05/02947/FUL, which previously modified consent 01/01881/FUL), to extend the proposed timescale for laying out and operating the approved sports pavilion and sports pitches for a further five year period.

#### (a) Report by the Chief Planning Officer

The application was to vary condition one of planning permission: 13/01843/FUL that stated 'Prior to the occupation of the completed housing, the 3.357hectare area highlighted on drawing number CS-PL-(MP1)100 shall be temporarily seeded to the agreed grass seed mixture for a period of up to 5 years from the date of this approval. Thereafter, the approved sports pavilion and sports pitches shall be laid out and fully operational within 1 year of this end date'.

The existing consents, including the minded to grant planning permissions in principle, were a material planning consideration in determining future planning applications on the site. The developer was still committed to providing the sports pavilion and pitches on the site. However, subsequent planning applications for the remaining part of the site would be expected to deliver good quality, useable and publicly accessible open space of a large standard. This application would regularise the current breach of planning control whilst the future development of the site would be progressed through subsequent applications.

Development on the residential element of the scheme was complete and the original planning application remained live. The proposal complied with the policies in the Edinburgh Local Development Plan and Edinburgh Design Guidance. The applicant had set-out a route-map detailing how they would use the five-year extension to deliver sports facilities on the site. Planning authorities had limited enforcement options in terms of delivery timescales of a private enterprise. The proposal remained acceptable and the five-year extension would remedy the current breach of planning control. There were no material considerations that outweighed this conclusion.

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**(b) Cramond and Barnton Community Council**

John Loudon addressed the Development Management Sub-Committee on behalf of Cramond and Barnton Community Council. Mr Loudon advised the Sub-Committee that the site stemmed to 11.9 hectares and suggested half of it was undeveloped with much covered in spoil and would likely be a liability for use as a commercial club or sports managed facility but one worth many million for development. Mr Loudon stated it was rare to find all ward councillors speaking as one when asking for a Hearing and that this reflected the level of frustration and angst in the local community. Mr Loudon advised the Sub-Committee he recently visited the site and stated it was in a state of dereliction and suggested that the Sub-Committee visited the site before taking a decision. Mr Loudon suggested the only positive way forward was a negotiated but enforceable solution and that the community wished to be positive in helping the developers deliver a sustainable future at the site that would meet all aspirations.

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**(c) Cramond Association**

Adam Cumming addressed the Development Management Sub-Committee on behalf of the Cramond Association. Mr Cumming advised that the Association had members who remembered being able to use the sport facilities at the site and were pleased to have the promise of new ones with the resources being set aside to support that. Residents had a long wait and Mr Cumming advised that residents were angered for themselves and their families in the area who were lacking in these facilities. Cramond Primary School lacked exercise and play space since it expanded and correspondence from the Head Teacher emphasised their need. Mr Cumming advised the Sub-Committee to note that the Council's Open Space 2021 Strategy identified that the majority of homes in Barnton and Cramond failed to reach the Council's standard for being located within 800m of a large green space and with 400m of a good play area. If this area was to be developed as green space that would help fulfil the needs as this type of space was required. Mr Cumming advised that the Cramond Association objected to the delay. The Community wanted to see the site improved, possibly by an improvement order. Mr Cumming asked the Sub-Committee not to accept the proposed extension to the permission and suggested that the current application was rejected and all interested parties, including the developer, on site to discuss in a transparent manner, prepared a planning brief, keeping the underdeveloped area as open space and accessible, that

included draining, grassing and making it safe. Mr Cumming suggested that any agreement of that kind should be as enforceable as possible.

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**(d) Consultee**

Kit Campbell addressed the Development Management Sub-Committee as a consultee. Mr Campbell advised that the Sub-Committee's predecessors had imposed several unenforceable conditions in relation to sports facilities on the site in at least 2003, 2009 and 2014 and that the report by the Chief Planning officer recommended another unenforceable condition. The condition as proposed would not guarantee delivery of anything and would not remedy any breach of planning control which had occurred. Mr Campbell noted the report stated that the site had been seeded in accordance with the 2014 condition, but this was strongly disputed by residents whose homes overlooked the site. Mr Campbell also highlighted that the report noted as the development was a private enterprise the Planning Authority had little control over the timescale for delivery but that the Planning Authority had no control due to the unenforceable conditions previously imposed on the development. Mr Campbell stressed that this campus was part of a strategically important network of green spaces from the Forth, across the farmland, to the campus, to the Bruntsfield Links golf course, to Davidsons Mains park, to Corstorphine Hill and possibly even as far down as Carrick Knowe golf course. Mr Campbell advised the strategically important network must be retained. Mr Campbell welcomed the developer's commitment to working with the Council and the local community in the road map that was produced.

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**(e) Consultee**

Gary Cameron addressed the Development Management Sub-Committee as a consultee. Mr Cameron advised that the developers had promised facilities like the facilities previously on the site. Mr Cameron noted that throughout the Covid-19 pandemic more residents in the community had rediscovered the area and were using it for walking, but the standard was far from what it should have been. Mr Cameron advised there were parts of the site that were dangerous. Throughout the previous 18 years, there had been little engagement from the developer with the local community and as a result, we poorly regarded locally. Mr Cameron advised that there was a feeling in the community that there was no intention to deliver what was promised at the outset of the application and argued that Council must hold the developer to account and work to deliver the sports facilities that were promised. In the short-term, it would be a good act of faith and show good intent if the developer cleared the area of abandoned buildings and materials. The drainage should also be addressed as many parts of the site did not have sufficient drainage and were unusable and the entire area should be levelled and seeded. Mr Cameron recommended the developer should provide a detailed account of what had been done and what approaches had been made to find a sports partner. It would be beneficial if the developer could update the local community

regularly with dates of actions that had been taken. The developer should work with the Council, local groups and organisations to develop the sports facilities.

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**(f) Ward Councillors - Almond**

Councillors Young, Hutchison, Lang and Work addressed the Sub-Committee as members for the Almond Ward.

Councillor Young advised the application had a lot of local interest. The application pre-dated Councillor Young's time as a Ward Councillor but Councillor Young noted it had been a constant ongoing source of frustration and profoundly disappointing for those who lived nearby. Councillor Young advised that constituents, at best, felt ignored and at worst made to feel deceived. At the time planning permission was initially granted, the provision of a recreational facility was not required to deliver in tandem with new houses, at least after the amendment was made. The outstanding obligation given to the community had gone on for years. Councillor Young stated that children who were born the year planning permission was granted, should have been able to enjoy some of the facilities during their time at High School but that had not been the case. It had been a source of frustration for Ward Councillors and the community that nothing could be done or enforced until the day the planning consent expired, even though it had been evident for some time that there had been no physical change on the site that it was being prepared for delivery on their obligation.

Councillor Hutchison noted that he endorsed everything said by John Loudon on behalf of Cramond and Barnton Community Council. This was an issue that the local community had been hugely engaged in over a long period of time and one where there was near almost universal agreement on what needed to happen regarding to help resolve the impasse. Councillor Hutchison advised that having been invited in by a resident of Brighthouse to view the state of the former sport pitches, he was appalled at the conditions they had been left in. Councillor Hutchison advised that, over the years, the community had tried to work with the developer. Councillor Hutchison noted that he has serious doubts about the developer's commitment to deliver anything on the site but had hoped that he was wrong. Councillor Hutchison suggested that a condition should be placed on the developer that if anything was to be approved, to clear and drain the land, to restore it to a usable and safe condition within a very short timeframe as a show of good faith.

Councillor Lang noted that it was 18 years since the original planning permission was granted for new homes and sports and recreational facilities. Councillor Lang advised the Sub-Committee that years after the last house was built at the site, the land to the south of the site remained empty and barren. Councillor Lang stated he did not begrudge private companies making a profit, but he did begrudge it when a company got what it wanted in terms of a commercial return, whilst the immediate community was left without what was promised. Councillor Lang advised that this was a community in need of good quality locally accessible sporting facilities. Councillor Lang asked the Sub-Committee that, in their questioning, the Sub-Committee properly scrutinised the developer's intentions and the roadmap that had been presented.

Councillor Work advised he had met with the developer several times and that they came to the Community Council and suggested they were willing to talk so if mediation was proposed then the developer would be agreeable. Councillor Work stated that when he visited the site it was not in good condition and was prone to flooding. Councillor Work advised he was in favour of having the site levelled so it could be used for recreation and also suggested the land could be given, donated or sold to the local community and that there were community groups who would be able to look after the land.

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**(g) Applicant and Applicant's Agent**

Caroline Nutsford (Avison Young) and Mike Afshar (AMA) were heard in support of the application. Ms Nutsford advised that the application was seeking a five-year extension to deliver the sport provision at Cramond, through a revision to Condition 1. This condition set out a requirement to temporarily seed the southern part of the Cramond site for a period of up to five years and thereafter lay out and operate the approved sports pavilion and sports pitches within one year. The reason for this condition was in the interest of visual amenity. Ms Nutsford advised the Sub-Committee that whilst the first part of the condition had been satisfied, the second part of the condition had been difficult to satisfy to date. Despite AMA making significant efforts over many years to deliver the sports facilities at Cramond, it had not yet been possible to deliver these in the timescale set out by the condition. AMA remained committed to delivering this and were seeking a five-year period to develop and deliver a high quality and sustainable viable sports facility that satisfied and met the requirements of the Cramond campus planning brief and approved sports management plan. Ms Nutsford requested that AMA's proposal be approved and that the developer heard the communities frustrations that the sports facility had not been completed to date, but stated that by approving the extension and following the route map it was the best outcome and solution to help realise the proposals on the site.

Mr Afshar advised Committee that AMA had created a residential development at Cramond that had been recognised by the industry in terms of awards. Mr Afshar stated the development of a sport facility at the site had been long and arduous, however, consistent with all other developments AMA had undertaken, they wanted to provide a sustainable solution and complete the development leaving a significant legacy behind. AMA had a route map to deliver a sport facility in line with planning approval already granted and remained committed to doing so.

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**Decision**

To **CONTINUE** consideration of the application for three months with a view to the case being reported back to Committee on 18 August 2021:

1. The Applicant could enter into either a Good Neighbour Agreement (GNA) or a mediated agreement (following independently chaired mediation), with the Community Councils, Cramond Association, and the other interested parties to this application including local councillors and the school, on a route map deliver the sport facilities, including incremental sport facilities in a timeous manner.
2. The Applicant, following agreement of either the GNA or mediated agreement, coul agree with the Council's Chief Planning Officer a detailed route map for delivery of the sport facilities, including incremental sport facilities.
3. The Council's Chief Planning Officer could investigate further, consulting with the applicant and interested parties, potential conditions in terms of:
  - a. length of period of any planning permission;
  - b. timeously remedying the current condition of the land;
  - c. the route map including an option for either the delivery of sport facilities incrementally, or a Plan B fallback approach in event that gold plated Plan A was not deliverable.
  - d. Examine potential for route map to form part of any permission and see whether it could be put into a phasing condition attached to any section 42 permission.

N.B. The Position vis-à-vis enforcement action and use of amenity notice powers was held in abeyance awaiting outcome of this planning decision.

(Reference – report by the Chief Planning Officer, submitted.)

## Appendix

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
Note: Detailed conditions/reasons for the following decisions are contained in the statutory planning register.		
<b>6.1 – <a href="#">34 Cramond Road North Edinburgh EH3 6RH (Land Adjacent to Former) - application no 20/02916/FUL</a></b>	Protocol Note by the Chief Executive	To note the protocol note.

**6.2 – [34 Cramond Road North, Edinburgh \(at Land Adjacent To Former\)](#)**

Section 42 application to vary condition 1 of planning permission reference 13/01843/FUL (which modified consent 05/02947/FUL, which previously modified consent 01/01881/FUL), to extend the proposed timescale for laying out and operating the approved sports pavilion and sports pitches for a further five year period - application no 20/02916/FUL

To **CONTINUE** consideration of the application for three months with a view to the case being reported back to Committee on 18 August 2021:

4. The Applicant could enter into either a Good Neighbour Agreement (GNA) or a mediated agreement (following independently chaired mediation), with the Community Councils, Cramond Association, and the other interested parties to this application including local councillors and the school, on a route map deliver the sport facilities, including incremental sport facilities in a timeous manner.
5. The Applicant, following agreement of either the GNA or mediated agreement, could agree with the Council's Chief Planning Officer a detailed route map for delivery of the sport facilities, including incremental sport facilities.
6. The Council's Chief Planning Officer could investigate further, consulting with the applicant and interested parties, potential conditions in terms of:
  - a. length of period of any planning permission;
  - b. timeously remedying the

Agenda Item No. / Address	Details of Proposal/Reference No	Decision
		<p>current condition of the land;</p> <p>c. the route map including an option for either the delivery of sport facilities incrementally, or a Plan B fallback approach in event that gold plated Plan A was not deliverable.</p> <p>d. Examine potential for route map to form part of any permission and see whether it can be put into a phasing condition attached to any section 42 permission.</p> <p>N.B. The Position vis-à-vis enforcement action and use of amenity notice powers was held in abeyance awaiting outcome of this planning decision.</p>