

[REDACTED]

Planning and Architecture Division  
06 September 2019

P.S. / Minister for Local Government, Housing and Planning,

**CONSIDERATION OF APPEAL FOR RECALL  
PPA-390-2060-01 – REDETERMINATION OF APPEAL FOLLOWING COURT OF  
SESSION DECISION - APPLICATION FOR PLANNING PERMISSION IN  
PRINCIPLE FOR RESIDENTIAL DEVELOPMENT CONSISTING OF 70 HOUSES,  
A CEMETERY WITH ASSOCIATED ENGINEERING WORKS AND  
LANDSCAPING AT LAND 160 METRES SOUTH OF BROADGATE HOUSE,  
CAMPSIE, ROAD, STRATHBLANE**

**Purpose**

1. To seek your agreement to recall the above planning appeal which is with DPEA to be redetermined following the decision of the Court of Session in June to quash Scottish Ministers' decision to refuse planning permission in principle.

**Priority**

2. Routine.

**Background and Consideration**

Previous appeal decision

3. In the court case Gladman v Scottish Ministers, issued 14 June 2019, the judgement considered that there had been a failing in law associated with the DPEA decision. Firstly, by failing to address the key issue of the appropriate methodology for assessing whether there was a shortfall in effective housing land supply. Secondly, by failing to have regard to all material considerations, specifically three previous appeal decisions which considered the appropriate methodology for assessing the existence and extent of any such shortfall.

4. The appellants seek planning permission in principle for residential development for 70 homes and a cemetery along with associated engineering works and landscaping at a site on the edge of Strathblane, Stirlingshire. An indicative masterplan for the development is shown at annex 1.

5. The site is not allocated for development in the Stirling Local Development Plan (LDP, October 2018). Further detail on the LDP is set out in the extract from the plan at annex 2.

Housing Land Supply Policy

6. The approach to assessing whether or not a planning authority has a five year effective land supply is subject to considerable debate. There can be disagreement over the approach used to key elements of the process. For example, depending on

the methodology used to calculate the land supply, shortfalls or surpluses can emerge in different time periods. This may centre on whether or not non-completions from previous years are carried forward and added to the target to be met over the remaining time period. In addition, there can be disagreement between Local Authorities and landowners/developers over the effectiveness of sites within the HLA. The Draft Planning Delivery Advice issued by the Scottish Government provided greater clarity over the approach to be used, however, it was withdrawn in December 2017 as agreement couldn't be reached with stakeholders and to allow focus to be given to addressing these issues through the planning bill.

7. [REDACTED]

Further  
background on Housing Land Supply Policy is set out at annex 3.

8. [REDACTED]

On this basis it is recommended  
that Ministers recall the related planning appeal case. [REDACTED]

The reason for this Direction is that this appeal raises potential issues in terms of the 5 year effective land supply, requiring a view to be taken on the methodology used. It is appropriate that Scottish Ministers make the final decision on this planning appeal. A proposed wording for a recall direction is set out at annex 4. [REDACTED]

## **Recommendation**

**9. It is recommended that you recall the above appeal for Ministers' decision.**

## COPY LIST

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Cabinet Secretary for Communities and Local Government			X		
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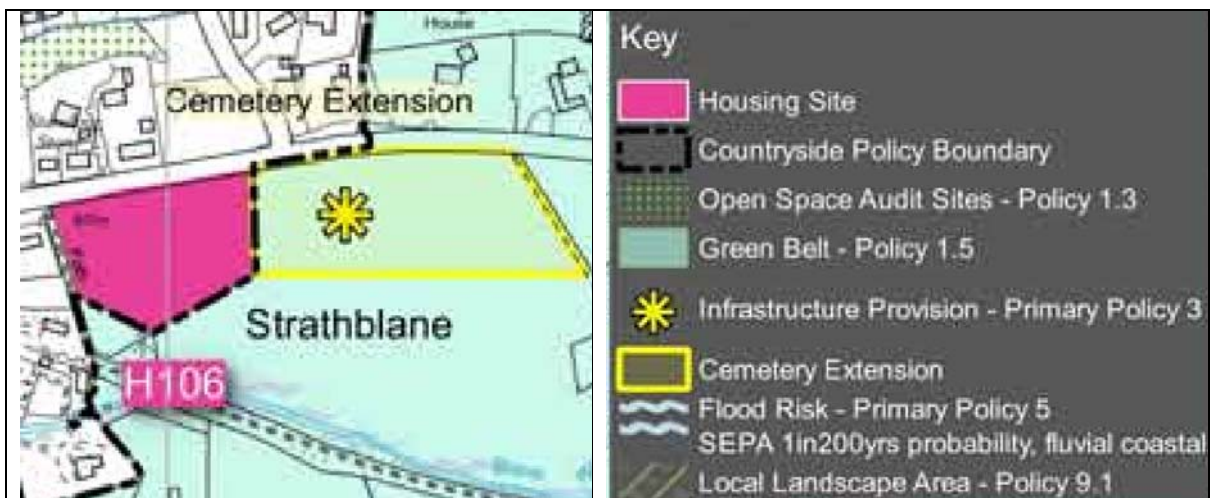
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## Annex 1 – Illustrative Site Masterplan



Drawing © LDA Design / Gladman Scotland

## Annex 2 – Extract from Stirling Local Development Plan (October 2018).



Drawing © Stirling Council, Ordnance Survey

### **Annex 3 - Housing Land Supply Policy**

A. Scottish Planning Policy (SPP, 2014) provides for “*a presumption in favour of development that contributes to sustainable development*” (paras 28 to 31) according to which planning authorities “*should ... ensure a generous supply of land for house building is maintained and there is always enough effective land for at least five years*” (para 123). While planning decisions require to be made in accordance with the relevant local development plan “*unless material considerations indicate otherwise*” (1997 Act, s 25(1)), where there is shortfall in the 5-year housing land supply, LDP policies in that regard will not be considered up to date (SPP, para 125); further, the status of the sustainable development presumption is elevated from a “*material*” (para 32) to a “*significant material*” (para 33) consideration.

B. In that situation:

*“Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP.”* (para 33)

## **Annex 4 - Proposed Recall Direction**

### **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

#### **PLANNING APPEAL: PROPOSED RESIDENTIAL DEVELOPMENT AND CEMETERY WITH ASSOCIATED ENGINEERING WORKS AND LANDSCAPING AT LAND 160 METRES SOUTH OF BROADGATE HOUSE, CAMPSIE ROAD, STRATHBLANE**

#### **DIRECTION THAT APPEAL WILL BE DETERMINED BY THE SCOTTISH MINISTERS**

The Scottish Ministers, in exercise of the powers conferred on them by paragraph 3(1) of Schedule 4 to the Town and Country Planning (Scotland) Act 1997, hereby direct that they will determine the above-mentioned appeal instead of a person appointed by them.

The reason for this Direction is that this appeal raises potential issues in terms of the 5 year effective land supply, requiring a view to be taken on the methodology used. It is appropriate that Scottish Ministers make the final decision on this planning appeal.

A copy of this Direction has been served on the appellant, the planning authority and any other parties as required by paragraph 3(2) of Schedule 4.

[REDACTED]

**## September 2019**

Scottish Government  
Directorate for Local Government and Communities  
Planning and Architecture Division  
Planning Decisions  
Victoria Quay  
EDINBURGH  
EH6 6QQ

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