

Report to: **Planning Committee**  
 Date of Meeting: **1 December 2009**  
 Report by: **Executive Director (Enterprise Resources)**

Application No CL/09/0313  
 Planning Proposal: Residential Development (Planning Permission in Principle)

## 1 Summary Application Information

- Application Type : Planning Permission in Principle
- Applicant : Lithgows Ltd
- Location : Land to South East of Boghall Road  
Carluke

## 2 Recommendation(s)

### 2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant planning permission in principle (subject to conditions – based on conditions listed overleaf)
- (2) That a Section 75 Agreement be completed prior to the final decision notice being issued. The Agreement would be between the Council and the applicant and would ensure a financial contribution of £3395 is submitted towards the creation of footpaths at various points along Boghall Road.

### 2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application.

## 3 Other Information

- ◆ Applicant's Agent: James Barr
- ◆ Council Area/Ward: 02 Clydesdale North
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (Adopted)**
  - Policy RES2: Proposed Housing Sites
  - Policy DM1: Development Management
  - Policy ENV12: Flooding
  - Policy ENV37: Sustainable Urban Drainage Systems
  - Policy ENV21: European Protected Species

- ◆ Representation(s):
  - ▶ 3 Objection Letters
  - ▶ 0 Support Letters
  - ▶ 0 Comments Letters

◆ Consultation(s):

S.E.P.A. (West Region) (Flooding)

Environmental Services

Roads & Transportation Services H.Q. (Flooding)

Scottish Water

Roads and Transportation Services (Area Manager, Clydesdale)

S.E.P.A. (West Region)

Roads & Transportation Services H.Q.(Transportation)

Scottish Natural Heritage

# **Planning Application Report**

## **1 Application Site**

- 1.1 The site extending to 4.9 hectares (or thereby) is located on Boghall Road, Carluke to the south-east of the Persimmon Homes development known as The Stables that it is currently under construction. The site consists of largely vacant land. A Sustainable Urban Drainage System (SUDS) pond is located at the north-eastern end of the site. This pond was created by Persimmon Homes to serve their development across the road. A path network has also been created by Persimmon Homes around this drainage feature. The applicant has claimed that these uses do not have landowner approval and that this matter is being investigated with Persimmon Homes.
- 1.2 The character of the site can be split into two distinct parts, with the south-western part of the site consisting of a generally flat, regular shaped agricultural field and the north-eastern part of the site consisting of vacant, made-up rough ground with uneven ground levels. The site is bounded to the north-west by Boghall Road with the Persimmon development beyond and to the north-east by an area of trees and an area of vacant land. The site is bounded to the south-east by the Fiddler Burn and by open agricultural ground to the south-west. The southern boundary of the site forms the settlement boundary of Carluke.

## **2 Proposal(s)**

- 2.1 The applicant seeks planning permission in principle for the creation of residential development on the site. Vehicular access to the site would be taken directly from Boghall Road (B7056). The applicant has submitted an indicative plan showing the point of access would be taken at a point approximately 105 metres to the south west of the access to Glenshee Gardens, which forms part of the Stables development. In support of this proposal, the applicant submitted a planning statement, a protected species survey, and a flood risk assessment.

## **3 Background**

### **3.1 Local Plan Background**

- 3.1.1 The site is located within the settlement boundary of Carluke where the site is identified as a proposed housing site in the adopted South Lanarkshire Local Plan, covered by Policy RES2. Policies DM1 Development Management, ENV12 Flooding, ENV37 Sustainable Urban Drainage Systems and ENV21 European Protected Species are also relevant.

### **3.2 Government Advice/Policy**

- 3.2.1 Scottish Planning Policy 3: Planning for Homes (Revised 2008) (SPP3) promotes the efficient use of land and buildings, in principle this means directing the majority of new development towards sites within existing settlements to make efficient use of existing infrastructure. Redevelopment of brownfield sites for housing should be preferred to development on greenfield sites.

### **3.3 Planning Background**

- 3.3.1 The application site incorporates part of the land subject of a detailed planning consent granted to Persimmon Homes in July 2004 for their development on the opposite side of Boghall Road (CL/03/0537). The site is identified on the approved plans as amenity open space.

## **4 Consultation(s)**

- 4.1 **Environmental Services** – offer no objections subject to conditions requiring the submission of a contaminated land assessment, details of refuse storage design and uplift and a noise survey to determine the impact of road traffic noise on the development.  
**Response:** Noted. Relevant conditions and advisory notes have been attached to address these issues.
- 4.2 **Roads & Transportation Services (Area Manager, Clydesdale)** – offer no objections and provide details of conditions which should be attached to the consent in relation to provision of footways, access standards, parking provision and drainage. In particular they require visibility splays of 4.5 metres by 120m and the provision of a 2 metre wide footway along the frontage of the site, linking to the existing footway network.  
**Response:** Noted. The applicant has shown the proposed position of a vehicular access to the site which can meet the visibility standards required by the Roads Service. A relevant condition can be attached to any consent granted to address the issues raised by the Roads Service.
- 4.3 **SEPA** – note that the site lies within the 1 in 200 year flood envelope and therefore is at medium to high risk of flooding. They object to this application as they consider insufficient information has been provided to assess flood risk. They request that the applicant submit a Flood Risk Assessment (FRA) or other appropriate information in support of the application. They also ask that a condition be attached if consent is subsequently granted requiring the site to be served by a SUDS system.  
**Response:** The applicant was advised of SEPA's concerns and subsequently submitted a FRA. SEPA now confirm that they have no objection to the proposed development on flood risk grounds provided that a condition is attached to any consent granted requiring the provision of a site layout including topographic details to confirm that the development is located at a suitable land difference above the Fiddler Burn and outwith its floodplan. Relevant conditions can be attached to any consent granted to address the issues relating to flooding and SUDS.
- 4.4 **SNH** – confirm that the ecology survey submitted by the applicant is appropriate in terms of its scope. They advise that conditions should be attached to any consent granted in relation to the submission of a bat survey prior to the felling of any trees within the site; provision of a 15m deep development stand off from Fiddler Burn to protect any foraging otters; implementation of a planting scheme of native tree species along the burn; pre-start checks for otters and water voles; preparation of a badger protection plan; tree works/vegetation removal to be scheduled for the period outwith the bird breeding season and submission of a design statement and landscaping plan.  
**Response:** Noted. Appropriate conditions and advisory notes have been attached to address the issues raised.
- 4.5 **Scottish Water** – offer no objection. The water treatment and waste water treatment works serving this site have capacity to serve the proposed development.  
**Response:** Noted.
- 4.6 **Scottish Wildlife Trust** – advise that the Fiddler Burn which forms the eastern boundary of the site is an important wildlife corridor. They recommend that a development stand off from Fiddler Burn be implemented and that a SUDS scheme should be incorporated on site.  
**Response:** Noted. Appropriate conditions have been attached to address the issues raised.

- 4.7 **Roads and Transportation Services (Transportation Engineering Manager)** – offer no objections and recommend a condition which should be attached to any consent granted requiring the submission of a financial contribution towards works to provide a continuous footway joining up all of the discontinuous footways along both sides of Boghall Road.

**Response:** A specification of the proposed footpath links has been supplied by the Roads Service along with an approximate costing. It is intended that the Roads Service would carry out the works which would be paid for jointly by the developers of four current or proposed housing sites which are planned along Boghall Road. The cost would therefore be split appropriately and a Section 75 Agreement rather than a condition would be completed between the applicant and the Council prior to the final decision on this application being issued. The Section 75 would ensure that the financial contribution is submitted to the Council at an appropriate stage. The applicant has been advised of this requirement and has confirmed his acceptance.

- 4.8 **Roads and Transportation Services (Flooding)** – no objections.

**Response:** Noted.

## **5 Representation(s)**

- 5.1 Following the statutory neighbour notification process three letters of objection were received. The content of these letters is summarised as follows:

- (a) **Objector claims that they did not receive neighbour notification and is concerned that other neighbours did not get notified either.**

**Response:** The objector's property does not fall within the zone required for neighbour notification as such there was no requirement for the applicants to notify this individual. I am satisfied that the statutory neighbour notification was carried out correctly.

- (b) **Concerns about drainage. The land to be developed includes the SUDS pond and walkway which were provided by Persimmon to serve the Stables development. The objector notes that the factor fee the residents pay goes towards the maintenance of this area.**

**Response:** The factoring arrangement for the residents of the Persimmon site is not a material planning consideration in respect of this proposal. I note that there is a SUDS pond and walkway on the current application site. The applicant claims that Persimmon did not have agreement to install these features on land that is in their ownership and that they are seeking to resolve this issue with Persimmon. A condition can be attached to any consent granted to ensure that the management of surface water on the site would be approved under the further detailed application. If the applicant fails to reach agreement with Persimmon, there is sufficient undeveloped land within the latter's site to provide a SUDS solution within land in their control.

- (c) **Concerns about traffic safety due to the amount of additional vehicles this development would bring. Many people walk along this road and there is no continuous footway.**

**Response:** The Council's Roads Service have not offered any objection to the proposal and I am satisfied that their requirements can be met. In particular conditions and a Section 75 Agreement can be attached to any consent granted to ensure the provision of footpaths along the frontage of the site and the submission of a financial contribution towards works that will be

undertaken to link existing discontinuous footpaths at points along Boghall Road. In view of this I consider that pedestrian safety will be improved.

- (d) **Objector understands that another housing development has already been passed on Boghall Road and there is concern about the cumulation of construction traffic and noise.**

**Response:** The Council's Environmental Services have powers to control construction noise should this become an issue.

- (e) **Loss of view and the adverse impact the development will have on the rural feel of the area.**

**Response:** The loss of view is not a material planning consideration. In terms of the loss of the rural character, the principle of development of this site has already been established by the local plan zoning of the site as a proposed housing site.

- (f) **The impact of another house builder in the area will impact on the Persimmon Homes site in terms of competition resulting in the Persimmon estate remaining unfinished with play parks not being built until the last house is built.**

**Response:** The issue of competition between housing developments is not a material planning consideration.

- (g) **The area is in fact a green belt area and during 2003 planning permission was refused for that reason.**

**Response:** Until recently the site was located within the greenbelt, however following the adoption of the South Lanarkshire Local Plan the site is allocated as a proposed housing site.

- (h) **Concerns that local amenities will not be able to cope.**

**Response:** I consider that the amenities within Carluke are adequate to cope with a development of this size. Recent developments either completed or under construction include a new secondary school, several primary schools, a health centre and library.

These letters have been copied and are available for inspection in the usual manner.

## **6 Assessment and Conclusions**

- 6.1 The applicant seeks planning permission in principle for the creation of a residential development. The main determining issues in assessing this application relate to local plan policy and road safety.
- 6.2 The application site was recommended for release from the Greenbelt for housing development by the Reporter who considered the site at the South Lanarkshire Local Plan Inquiry. The site was therefore included in the adopted plan as a proposed housing site. Policy RES2: Proposed Housing Sites is therefore relevant and this policy states that the Council will support development for housing on these sites. In view of this, I consider the principle of development of the site has been established by the local plan process. The Reporter considered that in releasing this site it offered an opportunity for substantial planting along the Fiddler Burn, thereby offering continuity with adjacent housing development sites situated to the north-east along Boghall Road. Should Committee agree to the approval of this application a condition can be placed on the consent to ensure a significant planting scheme is undertaken along the south-eastern and south-western boundaries of the site so that

the edge of the housing site forms an appropriate and defensible settlement boundary to the town of Carlisle.

- 6.3 Policy DM1: Development Management is also relevant in the assessment of this application. This policy requires proposals to take account of the local context and built form and should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity. In addition the policy states that the proposals should provide suitable access, parking and have no adverse implications for public safety and should make appropriate infrastructure provision to serve the development. Should this application be approved a standard condition would be placed on the consent to ensure a further detailed application is submitted to show the layout and design of the dwellings. At this stage the development will be assessed against the Council's residential development standards and its impact on the character of the area. Given that half of the site consists of land which was used to dump spoil from former mining activities I am satisfied that this development, along with the proposed planting along the Fiddler Burn will assist in improving the visual amenity of the area.
- 6.4 Following discussions the statutory consultees have confirmed they have no objections to the proposal and I am satisfied that appropriate conditions can be attached to the consent to ensure that the further, detailed application takes fully into account their requirements. In particular, a flood risk assessment shows that there would be no flood risk to the development, therefore complying with Policy ENV12. I am also satisfied that Policy ENV21 has been addressed in that it has been shown that European Protected Species would not be adversely affected.
- 6.5 In terms of road safety, the Council's Roads Service have confirmed that they have no objection to the proposal. The required visibility splay for the vehicular access can be achieved and they recommend that a financial contribution should be submitted towards the formation of additional footpaths which would link-up the existing discontinuous stretches further along Boghall Road, to the north-east of the site. The intention would be that the developer for this site and the developers of three further housing sites along Boghall Road should each pay a proportionate amount towards the costs involved in forming these footpath links. The implementation of this project would be undertaken by the Council's Roads Service as soon as is practicable. In order to ensure the financial contribution is submitted, a Section 75 Agreement requires to be completed between the Council and the applicant prior to the final decision on this application being issued.
- 6.6 It is noted that the development site contains a SUDS pond created by Persimmon Homes to serve their housing development situated opposite the site. The applicant claims that this work was undertaken without landowner consent and as such this is a legal matter which is being pursued between the two parties. The applicant cannot confirm at this stage what the outcome will be, however they are aware that a solution to this issue will need to be addressed as their proposals move forward. The applicant has appointed engineering consultants to provide an overview of options open to them to manage the surface water from their own development and possible options for dealing with the Persimmon SUDS pond. This shows that there are several options available and therefore I am comfortable that a suitable solution can be arranged for the treatment of surface water on the site. If consent is granted a condition could be attached to ensure the further detailed application includes full details of the proposed drainage solution. The terms of Policy ENV37 are therefore met.

- 6.7 I am satisfied that the principle of development of this site has been established by the local plan zoning, will assist in improving the visual amenity of the area and will provide a defensible settlement boundary. I therefore recommend that planning permission in principle be granted.

## **7 Reasons for Decision**

- 7.1 The proposal is consistent with Policies RES2, DM1, ENV12, ENV21 and ENV37 as contained in the adopted South Lanarkshire Local Plan.

**Colin McDowall**  
**Executive Director (Enterprise Resources)**

**16 November 2009**

## **Previous References**

- ◆ CL/03/0537

## **List of Background Papers**

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
  - Environmental Services 19/08/2009
  - Scottish Water 17/08/2009
  - Scottish Natural Heritage 24/08/2009
  - Roads & Transportation Services H.Q. (Flooding) 24/09/2009
  - Roads & Transportation Services (Area Manager, Clydesdale) 06/11/2009
  - S.E.P.A. (West Region) (Flooding) 17/09/2009  
&  
13/11/2009
  - Roads & Transportation Services H.Q.(Transportation) 06/11/2009
  - Scottish Wildlife Trust 25/08/2009
- ▶ Representations
  - Representation from : Mr & Mrs C Millward, The Stables, 74 Glen Shee Gardens, Carluke, ML8 4RR, DATED 10/08/2009
  - Representation from : Mrs A V Bonter & Mr C Smith, 75 Glen Shee Gardens, The Stables, Carluke, ML8 4RR, DATED 10/08/2009
  - Representation from : Richard Reynolds, 67 Glen Shee Gardens, Carluke, ML8 4RR, DATED 31/08/2009



**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

Gail Rae

(Tel :01555 673205 )

E-mail: [Enterprise.lanark@southlanarkshire.gov.uk](mailto:Enterprise.lanark@southlanarkshire.gov.uk)

Permission in principle

PAPER APART – APPLICATION NUMBER : CL/09/0313

## CONDITIONS

- This decision relates to drawing numbers:

  - 1 Drg No 1 Site Location Plan  
Drg No 49335327/sk-0010 Development Access (dated 29.10.09)
- 2 Prior to the commencement of development on site, a further application(s) for the approval of the matters specified in this condition must be submitted to and approved by the Council as Planning Authority. These matters are as follows:
  - (a) the layout of the site, including all roads, footways, parking areas and open spaces;
  - (b) the siting, design and external appearance of all building(s) and any other structures, including plans and elevations showing their dimensions and type and colour of external materials;
  - (c) detailed cross-sections of existing and proposed ground levels, details of underbuilding and finished floor levels in relation to a fixed datum, preferably ordnance datum.
  - (d) the means of access to the site;
  - (e) the design and location of all boundary treatments including walls and fences;
  - (f) the landscaping proposals for the site, including details of existing trees and other planting to be retained together with proposals for new planting specifying number, size and species of all trees and shrubs;
  - (g) the means of drainage and sewage disposal.
  - (h) details of the phasing of development (covering all relevant aspects of development detailed in (a) above);
  - (i) submission of an energy statement which demonstrates that on-site zero and low carbon energy technologies contribute at least an extra 15% reduction in CO2 emissions beyond the 2007 building regulations carbon dioxide emissions standard.
  - (j) a Design and Access Statement which sets out the design principles, justifying the design solution, showing how the proposal responds to the wider context of the area as well as the characteristics of the site and how issues relating to access to the development for disabled people have been dealt with.
- 3 The application(s) for these further matters (as required in Condition 2 above) must be made to the Council as Planning Authority before whichever is the latest of the following:
  - (a) expiry of 3 years from when permission in principle was granted
  - (b) expiry of 6 months from date when an earlier application for approval was refused, and
  - (c) expiry of 6 months from date on which an appeal against the refusal was dismissed.Approval of the further specified matters can be made for -
  - (i) different matters, and
  - (ii) different parts of the development
- 4 Unless development commences, planning permission in principle expires 2 years from approval of the specified matters being granted, or if different matters are approved on different dates, then 2 years from the date of the last approval.
- 5 The energy statement required by condition 2 above, shall include:

- a) the total predicted energy requirements and CO2 emissions of the development, clearly illustrating the additional 15% reduction beyond the 2007 building regulations CO2 standard;
- b) a schedule of proposed on-site zero and low carbon energy technologies to be included in the development and their respective energy contributions and carbon savings;
- c) an indication of the location and design of the on-site energy technologies; and
- d) a maintenance programme for the on-site zero and low carbon energy technologies to be incorporated.

The approved on-site zero and low carbon energy technologies shall be fully installed and operational prior to the occupation of any approved buildings and shall thereafter be maintained and shall remain fully operational in accordance with the approved maintenance programme, unless otherwise agreed in writing by the Council as Planning Authority.

- 6 That the further application required under the terms of Condition 2 above, shall include a detailed scheme for surface water drainage. Surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland and with the Council's Sustainable Drainage Design Criteria and requirements and shall be agreed in writing with the Council as Planning Authority in consultation with SEPA. Given that an existing Sustainable Urban Drainage detention pond is situated on the development site, this shall include a suitable solution for the management of the surface water on the site which resolves the current situation.
- 7 That the further application required under condition 2 above shall include details of facilities for the storage of refuse within the site, including design, location, external finishes and access for its uplift, shall be submitted to and approved in writing by the Council as Planning Authority. No dwelling unit shall be occupied until these facilities have been provided in accordance with the approved scheme or such alternative as may be agreed in writing with the Council as Planning Authority.
- 8 That the further application required under the terms of Condition 2 above shall include a noise survey to determine the impact of road traffic noise on the development using the principles set out in "Calculation of Road Traffic Noise" (DoT/Welsh Office, HMSO, 1988) or by a method to be agreed by the Planning Authority and shall identify the Noise Exposure Category specified in Planning Advice Note 56 within which the development will fall. If it falls within category B or C then a scheme for protecting the proposed dwellings from road traffic noise shall be included as part of the noise survey.
- 9 (a) Prior to commencement of any works on site, a comprehensive site investigation carried out to the appropriate Phase level, shall be submitted to and approved in writing by the Council as Planning Authority. The investigation shall be completed in accordance with the advice given in the following:
  - (i) Planning Advice Note 33 (2000) and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995);
  - (ii) Contaminated Land Report 11 - 'Model Procedures for the Management of Land Contamination (CLR 11) - issued by DEFRA and the Environment Agency;
  - (iii) BS 10175:2001 - British Standards institution 'The Investigation of Potentially

Contaminated Sites - Code of Practice'.

(b) If the Phase 1 investigation indicates any potential pollution linkages, a Conceptual Site Model must be formulated and these linkages must be subjected to risk assessment. If a Phase 2 investigation is required, then a risk assessment of all relevant pollution linkages using site specific assessment criteria will require to be submitted.

(c) If the risk assessment identifies any unacceptable risks as defined under Part IIA of the Environmental Protection Act, a detailed remediation strategy will be submitted to and approved in writing by the Council as Planning Authority. No works other than investigative works shall be carried out on site prior to receipt of the Council's written approval of the remediation plan.

- 10 That the further application required under the terms of Condition 2 above shall include:
  - (a) the provision of a 2 metre wide footway along the full frontage of the site which links to the existing footway network
  - (b) an internal layout and parking provision which accords with the Council's 'Guidelines for Development Roads'
  - (c) vehicular access to the site from Boghall Road as shown on the approved plans with a minimum 5.5 metre wide junction with a visibility splay of 4.5 metres x 120 metres
- 11 That the further application required under the terms of Condition 2 above, shall make reference to and incorporate the criteria specified within the approved South Lanarkshire Council 'Residential Development Guide'.
- 12 That no trees within the application site shall be lopped, topped, pollarded or felled, and no shrubs or hedges shall be removed from the application site without the prior written consent of the Council as Planning Authority.
- 13 That the further application required under the terms of Condition 2 above shall include:
  - (a) a bat survey before any mature trees are removed
  - (b) a 15 metre development stand off from the western bank of the Fiddler Burn into the site, as well as a planting scheme for this area consisting of native tree species.
  - (c) a badger protection plan
- 14 That pre start checks for otters, water voles, breeding birds and badgers should be carried out no more than 6 months prior to works commencing on site.
- 15 That the further application required under Condition 2 above shall include a scheme of tree and shrub planting for a 15 metre strip along the south-western edge of the site and for the development stand-off area from the Fiddler Burn as required under condition 13 above.
- 16 That the further application required under the terms of Condition 2 above shall include:
  - (a) a layout which allows access and egress to the site for both vehicle and pedestrians during a 200 year storm event.
  - (b) a layout which ensures that no development takes place within the 1 in 200 year flood extent.

- (c) a drainage scheme which is designed and developed to store up to the 1 in 200 year plus climate change critical storm volume within the site area.
- (d) a hydraulic assessment establishing the final flood levels and flood extents associated with Fiddler Burn to enable the development levels to be set.
- (e) a topographical site layout confirming that the development is located at a suitable level difference above the Fiddler Burn and outwith its floodplan.

## REASONS

- 1 For the avoidance of doubt
- 2 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 3 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997.
- 4 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997.
- 5 These details have not been provided or approved.
- 6 To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.
- 7 To ensure that adequate refuse arrangements are provided that do not prejudice the enjoyment of future occupiers of the development or neighbouring occupiers of their properties, to ensure that a satisfactory external appearance is achieved and to ensure that appropriate access is available to enable refuse collection.
- 8 In the interests of amenity.
- 9 To avoid unacceptable risks to human health and the environment, to ensure that the land is remediated and made suitable for its proposed use.
- 10 In the interest of road safety
- 11 In the interests of amenity and to ensure that the Council's key residential development standards are met.
- 12 To ensure the protection and maintenance of the existing trees and other landscape features within the site.
- 13 To ensure that provision is made to safeguard the ecological interest on the site.
- 14 To ensure that provision is made to safeguard the ecological interest on the site.
- 15 In the interests of amenity and in order to provide a defensible settlement edge
- 16 To ensure that there will be no risk of flooding to land and properties.

For information only

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