

Report

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Report to:	Hamilton Area Committee
Date of Meeting:	17 December 2008
Report by:	Executive Director (Enterprise Resources)

Subject:	Planning Application Appeals
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1. Purpose of Report

1.1 The purpose of the report is to:-

- ◆ Advise members of planning application appeal decisions issued by the Scottish Government's Directorate of Planning and Environmental Appeals (DPEA) during the period 1 April 2008 – 30 September 2008 and of appeals outstanding.

2. Recommendation(s)

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

- (1) that the decisions issued by DPEA are noted for information;
- (2) that the appeals lodged with DPEA are also noted for information.

3. Background

3.1 Following refusal of a planning application, or non-determination within the statutory two month period for issuing a decision, or of the granting of consent subject to conditions, appeals can be lodged by applicants to the Scottish Government's Directorate of Planning and Environmental Appeals (DPEA) for their consideration. An appeal can be dealt with through three mechanisms: formal public inquiry, a hearing or by written submission. The vast majority are dealt with by written submissions.

3.2 During the period 1 April 2008 – 30 September 2008, DPEA have issued decisions on the appeals listed in Appendix 1. Appendix 2 lists appeals which have been lodged but which have yet to be decided.

4. Statutory performance indicators

4.1 The Council currently requires to report a statutory performance indicator relating to appeals to Scottish Government on:

The number of appeals that were successful (in the appellants favour):

- a) as a percentage of the number of planning determinations made by the council
- b) as a percentage of the number of determinations that went to appeal.

4.2 The indicator examines the extent to which planning applicants appealed to Scottish Ministers against the decision of the Council and were successful in having the Council's decision overturned. The indicator relates to both householder and non-householder applications.

- 4.3 The indicators for the period 1 April 2008 – 30 September 2008 are as follows:
The number of appeals that were successful:
a) as a percentage of the number of planning determinations made by the council – 0.4% (National average = 0.7%)
b) as a percentage of the number of determinations that went to appeal – 17.8% (National average = 37.5%).

Therefore, the figures for the previous six month period are, to date, better than the existing national averages, which reflects the balanced and considered approach in assessing and determining planning applications.

5. Notable appeal decisions

- 5.1 This section highlights some of the more important appeal decisions, or appeal decisions on larger scale proposals issued during the last six months.
- 5.2 CL/06/0617 – Application by Aldi Stores Ltd for the erection of Class 1 retail unit with associated access, car parking and servicing at Market Road, Biggar.
The appeal was dismissed by the Reporter partly on the basis that the proposed store would have an unacceptable impact on the vitality and viability of Biggar town centre and partly because it would result in the loss of marketable industrial land which could meet local needs.
- 5.3 EK/07/0133 – Non determination by the Council within the statutory two month period of an application by Vico Properties plc for the erection of a non-food retail unit of 700 square metres at Kingsway East, Nerston, East Kilbride.
The appeal was dismissed by the Reporter on the basis that there was no overriding reason to depart from the relevant policies of the development plan which identified the site for commercial and not retail use. It was considered an inappropriate location for a retail use and was not physically related to other retail uses in the area.

6. Employee Implications

- 6.1 None.

7. Financial Implications

- 7.1 In respect of planning application no. EK/07/0531 the Reporter, as well as sustaining the planning appeal, also found that “the Council had acted in an unreasonable manner resulting in liability for expenses.” The appellants have subsequently submitted a claim for £18,923.66 in expenses.

8. Other Implications

- 8.1 None.

9. Equality Impact Assessment and Consultation Arrangements

- 9.1 This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and therefore, no impact assessment is required.

Iain Urquhart
Executive Director (Enterprise Resources)

2 December 2008

Link(s) to Council Objectives/Values

- Improve the quality of the physical environment

Previous References

None.

List of Background Papers

- All appeal decision letters issues by the Directorate of Planning and Environmental Appeals for the appeals detailed in Appendix 1.

Contact for Further Information

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

Karen Brown, Planning Officer, Montrose House

Ext: 5945 (Tel: 01698 455945)

E-mail: karen.brown@southlanarkshire.gov.uk

Appendix 1 - Summary of planning application appeal decisions (1st April 2008 – 30th September 2008)

Ward	Application number	Description of proposal	Location	Decision
Cambuslang/Rutherglen area				
13 Cambuslang West	CR/07/0021	Erection of a house at rear of site (outline)	32 Glenburn Ave, Cambuslang	Dismissed
13 Cambuslang West	CR/07/0277	Erection of a double garage	7 Brownside Road, Cambuslang	Dismissed
Clydesdale area				
1 Clydesdale West	CL/07/0385	Erection of house (outline)	Dyke Cottage, Stonedyke Road, Carluke	Dismissed
1 Clydesdale West	CL/07/0830	Erection of a house (outline)	Stockwell Farm, Braidwood	Dismissed
2 Clydesdale North	CL/07/0300	Erection of house (in outline)	'Redroofs', St Patrick's Road, Lanark	Dismissed
2 Clydesdale North	CL/07/0503	Display of a double sided, pole mounted advertisement display unit	Somerfield, St Vincent Place, Lanark	Dismissed
2 Clydesdale North	CL/07/0707	Formation of two residential plots (outline)	Tashieburn Road Haywood	Dismissed
3 Clydesdale East	CL/06/0617	Erection of class 1 retail unit with associated access, car parking & servicing	Market Road, Biggar	Dismissed
3 Clydesdale East	Enforcement appeal	Alleged display without a consent required under regulations, one free standing remote signboard	Carnwath Road, Carstairs	Dismissed

Ward	Application number	Description of proposal	Location	Decision
Clydesdale area				
3 Clydesdale East	Enforcement appeal	Alleged display without a consent required under regulations, one free standing remote signboard	Carnwath Road, Carstairs	Dismissed
3 Clydesdale East	CL/07/0184	Erection of a house (outline)	Bankhead Farm Cottage, Biggar Road, by Carnwath	Sustained
3 Clydesdale East	CL/07/0085	Erection of 11/2 storey house	Vacant land at Stephen Avenue, Biggar	Dismissed
3 Clydesdale East	CL/07/0520	Residential development (outline)	Land adjacent to East Gladstone Farmhouse, Biggar	Dismissed
3 Clydesdale East	CL/07/0736	Dwelling house (outline)	House plot opposite no. 66 Biggar Rd, Symington	Dismissed
4 Clydesdale South	CL/07/0331	Erection of one and a half storey house	20 Broompark Drive, Lesmahagow	Dismissed
4 Clydesdale South	CL/06/0795	Erection of a single storey house & detached double garage	Yonderton Farm, Lesmahagow	Dismissed
4 Clydesdale South	CL/07/0858	Erection of house (in outline)	Ellenbank Farm, Lesmahagow	Dismissed
East Kilbride area				
5 Avondale and Stonehouse	EK/07/0550	Alterations to windows and construction of decking at rear of property	Old Mill Cottage, 350 Auldhouse Rd, Auldhouse	Dismissed

Ward	Application number	Description of proposal	Location	Decision
East Kilbride area				
5 Avondale and Stonehouse	EK/07/0654	Side extension to house	East Wing, Townhead of Priestgill Farm, Strathaven	Sustained
5 Avondale and Stonehouse	EK/07/0377	Erection of house (outline)	East Overton, Strathaven	Dismissed
5 Avondale and Stonehouse	EK/07/0426	Erection of one and a half storey detached dwelling	73 Lethame Road, Strathaven	Dismissed
9 East Kilbride West	EK/07/0133	Non-determination within the statutory period for the erection of a non- food retail unit (700 square metres)	Development site, Kingsway East, Nerston East, Nerston East Kilbride	Dismissed
9 East Kilbride West	EK/07/0531	Demolition of existing house & erection of 2 detached houses, 1 detached double garage	1 Mackenzie Gardens, East Kilbride	Sustained
Hamilton area Office				
16 Bothwell and Uddingston	HM/07/0331	Appeal against condition 4 of granted permission hm/07/0331 - restrict hours of use of floodlighting on tennis court	Bothwell Tennis Club, Bothwell	Sustained
17 Hamilton North and East	HM/08/0010	Erection of a freestanding illuminated sign	Muir Street at Motherwell Road, Hamilton	Dismissed
18 Hamilton West and Earnock	HM/07/0346	Erection of rear extension to house	Plot 38, Badgers Way, Torhead Farm, Hamilton	Dismissed
20 Larkhall	HM/07/0479	Change of use of store to	Woodhall, Manse Brae,	Dismissed

		tourist/visitor accommodation	Dalserf	
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Ward	Application number	Description of proposal	Location	Decision
Hamilton area				
20 Larkhall	HM/06/0685	Appeal against conditions 7, 8, 9, 10, 12, 14, 15 & 17 of granted permission HM/06/0685	Highlees Farm, Lanark Road, Larkhall	Sustained

Appendix 2 – Outstanding appeals at 30 September 2008

Ward	Application number	Description of proposal	Location
1 Cambuslang/Rutherglen area			
11 Rutherglen South	CR/07/0229	Amendment to previous consent CR/04/0327 including raised rear decking, patio doors & new stairs	4 Highburgh Drive, Rutherglen
2 Clydesdale area			
1 Clydesdale West	CL/08/0154	Erection of house (outline)	Land at Lilybank Nursery, Braidwood, Carluke
1 Clydesdale West	CL/07/0607	Residential development (outline)	Airdrie Road, Carluke
3 Clydesdale East	CL/07/0748	Erection of a house (in outline)	Land adjacent to Glengavel, Wiston
3 Clydesdale East	CL/07/0465	Erection of agricultural workers house (outline)	Falburns Holding, Thankerton, Biggar
3 Clydesdale East	CL/08/0219	Conversion of agricultural outbuilding to form 2 houses & change of use of agricultural land to garden ground	Land to South East of Huntlybank House, Huntlybank, Ravenstruther
4 Clydesdale South	CL/07/0754	Change of yard area to form beer garden	Cross Keys Inn, 68 Main Street, Douglas
4 Clydesdale South	CL/06/0881	Change of use of equestrian stud, livery yard & riding school, class 4 business - against conditions imposed CL/06/0881	Kypeside Stables, Deadwaters
3 East Kilbride area			
9 East Kilbride West	EK/08/044	Erection of house	11 Wellknowe Place, Thorntonhall
Ward	Application number	Description of proposal	Location
9 East Kilbride West	EK/07/0671	Erection of a house	Land adjacent to 61 Peel Road, Thorntonhall
4 Hamilton area			
17 Hamilton North	HM/08/0152	Residential development (21	1 Muir Street, Hamilton

and East		flatted units)	
17 Hamilton North and East	HM/08/0152	Proposed sub- division of existing dwelling	20 Miller Street, Larkhall
19 Hamilton South	HM/08/0123	Change of use from storage associated with retail unit for hot food shop (sui generis)	32 Annsfield Road, Eddlewood, Hamilton
20 Larkhall	HM/08/0262	Demolition and rebuilding of part of ground floor to rear elevation & provision of upper stores rear extension	10 Machan Avenue, Larkhall