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|  | <h1>Report</h1> | Agenda Item <h2>3</h2> |
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Report to: **Planning Committee**
 Date of Meeting: **26 May 2009**
 Report by: **Executive Director (Enterprise Resources)**

Application No HM/07/0691
 Planning Proposal: Erection of Dwellinghouse (Outline)

1 Summary Application Information

- Application Type : Outline Planning Application
- Applicant : Townfield Construction
- Location : Land to west of Old Toll House
 Plot A
 52 Carlisle Road
 Ferniegair
 Hamilton

2 Recommendation(s)

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

- (1) Grant Outline Planning Permission – (Subject to Conditions – Based on Conditions Attached)

2.2 Other Actions/Notes

- (1) The Planning Committee has the delegated powers to determine this application.
- (2) The application is contrary to the Development Plan and representations have been received. In accordance with Council procedures, a hearing may be required prior to determining the application.
- (3) Planning consent should be withheld until a Section 75 Agreement between the Council and the applicant has been concluded to ensure the restoration of the adjacent Category B listed Toll House. The Council's legal expenses in connection with the Agreement will be borne by the Applicant.

3 Other Information

- ◆ Applicant's Agent: Munro Associates
- ◆ Council Area/Ward: 17 Hamilton North and East
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (adopted)**
 Policy STRAT 3 – The Green Belt and Urban
 Settlements in The Green Belt Policy
 Policy ENV 23 - Listed Buildings Policy
 Policy ENV 31 - New Housing Development
 Policy DM 1 – Development Management
 Policy

- ◆ Representation(s):
 - ▶ 4 Objection Letters

- ◆ Consultation(s):

Environmental Services

Roads and Transportation Services (Hamilton Area)

Scottish Water

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

Roads & Transportation Services H.Q. (Geotechnical)

TRANSCO (Plant Location)

Historic Scotland

Scottish Natural Heritage

Planning Application Report

1 Application Site

- 1.1 The application relates to an area of land located to the west of the Toll House on the southern side of Carlisle Road which is located on the southern edge of Hamilton. The site is fairly irregular in shape, it extends to approximately 0.23 hectares and it comprises a mix of dense understory woodland with emerging maturing planting in addition to a rough track and cleared site area on a higher terrace. An old mill lade is present on a lower terrace by the river along the northern part of the site. The site slopes down towards the River Avon. The site is bounded to the north by the River Avon and Avon Bridge, which is a Grade A listed structure, to the south by residential properties and associated landscaping, to the east by the Toll House, which is a Grade B listed building, and the adjacent Carlisle Road (A72) and to the west by scrub and the adjacent Chatelherault Park. There are two access points to the site one from a track off the Old Avon Bridge and one from a track off Carlisle Road.

2 Proposal(s)

- 2.1 The applicant seeks outline planning consent for the erection of a dwellinghouse on land referred to as 'Plot A' which is located to the west of the Old Toll House off Carlisle Road in Ferniegair. The application was submitted in tandem with an accompanying outline application for the erection of a single dwellinghouse on an adjacent site referred to as 'Plot B' and is intended as part of a funding strategy to enable the restoration and extension of the Old Toll House adjoining the site. The restoration and extension of the Toll House are the subject of separate detailed planning and listed building consent applications. A supporting Planning Statement incorporates a detailed cost analysis which concludes that if the restoration of the Toll House is to be successfully achieved, some form of enabling development is required to fund the restoration project. On this basis, it is proposed that the proceeds from the sale of Plots A and B would be utilised to offset the costs of renovation.
- 2.2 As the application is for outline planning consent no details were submitted in terms of the design and layout of the dwellinghouse, however, a notional footprint of the proposed dwellinghouse has been indicated on the submitted plans. The proposed access to the site is via Carlisle Road. In addition to the Planning Statement discussed above a Tree Survey and Protected Species Survey were submitted with the application as supporting documents.

3 Background

3.1 Local Plan Status

- 3.1.1 The application site is designated as Green Belt land in the adopted South Lanarkshire Local Plan. The relevant policies covering the site are Policies STRAT 3 – The Green Belt and Urban Settlements in The Green Belt Policy, ENV 23 – Listed Buildings Policy, ENV 31 – New Housing Development and DM 1 – Development Management Policy. The content of the above policies and how they relate to the proposal is assessed in detail in Section 6 of this report.

3.2 Relevant Government Advice/Policy

- 3.2.1 SPP1 - The Planning System states that the determination of planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. It goes on to say that in all cases, planning permission should only be refused where, whether because of the policies in place or

other material considerations, there are sound reasons for doing so.

- 3.2.2 SPP21 – Green Belts states that Green Belts will continue to play a key role in managing change in Scotland's towns and cities and once in place should be robustly protected. There should continue to be a strong presumption against inappropriate development.
- 3.2.3 SPP23 – Planning and the Historic Environment states that it may be appropriate to consider enabling development if this can be shown to be the only means of retaining a listed building. In such cases, development must be managed carefully and a high quality end product achieved which protects the listed building and its setting and is the minimum necessary to enable its conservation and re-use. The new development should be designed to retain and enhance the special interest, character and setting of the listed building.

3.3 **Planning Background**

- 3.3.1 There is no recent planning history relating to this site. However, as stated above, the application was submitted in tandem with an accompanying outline application for a single dwellinghouse on an adjacent site referred to as 'Plot B' and is intended as part of a funding strategy to enable the restoration and extension of the Toll House adjoining the site (HM/07/0690). The restoration and extension of the Toll House is the subject of separate detailed planning and listed building consent applications which were submitted in tandem with the outline planning application being assessed (HM/07/0685 & HM/07/0675). These applications appear elsewhere on the Planning Committee Agenda.

4 **Consultation(s)**

- 4.1 **Environmental Services** – have no objections to the proposal subject to the inclusion of an advisory note relating to audible construction activities.
Response: Noted and an appropriately worded informative would be incorporated into any consent granted to address the matter raised.
- 4.2 **Historic Scotland** - The information submitted by the applicant is insufficient to assess the level of impact 2 dwellinghouses may have to the setting of the adjacent Category A listed Bridge. The Council should be mindful of the potential detrimental impact 2 houses may have to the bridge and its setting. It is assumed that until the Council is confident that the proposed dwellings will not have an unacceptable impact to the bridge outline permission should not be granted. The applicant has stated that the purpose of these two houses is to cross fund an enabling development for the nearby Category B listed Toll House. In Historic Scotland's experience enabling developments tend to be for larger buildings. Government policy states that this should be the minimum necessary to unlock the development potential of buildings or sites and enable their restoration.
Response: Noted and the principle of the proposal is discussed in detail in Section 6 of this report.
- 4.3 **Roads and Transportation Services (Hamilton Area)** – have no objections to the proposal subject to conditions relating to acceptable visibility splays, car parking and the surfacing of the access road. They have noted that there is an alternative access from Old Avon Road via the Old Avon Bridge and that SEPA and Scottish Water should be consulted in terms of potential discharge to the adjacent river.
Response: Noted and appropriately worded conditions and informatives would be incorporated into any consent granted to address the matters raised. Both SEPA

and Scottish Water were consulted on the application and a summary of their comments is set out below.

- 4.4 **Roads and Transportation Services (Geotechnical)** – have concerns relating to the effect of any work in the slope down towards the river, including tree felling. Although the slope is mostly at a low gradient, there is a steep portion close to the river. The soils appear to be sands and silts which can be unstable at low angles. This is especially true if they are subject to erosion by moving groundwater and there is currently evidence of this sort of erosion. The submitted cross sections have confirmed the view that the slope stability may be marginal and that the Council should require the submission of a proper engineering analysis. The submitted sections show at least part of the slope to be steeper than is desirable. In the case of the proposed extension, trees are to be removed from the steepest part of the slope. The supporting notes refer to SUDS features and the drawings show the existing lade crossing a slope with a retaining wall at the toe of an already over-steep area. It would be possible to address these concerns by means of a robust condition requiring the submission of a slope stability analysis on the area from the building to the River Avon. The analysis should be based on parameters and stratigraphy obtained by intrusive investigation and should be backed by suitable public indemnity insurance. It should take account of the effects of erosion by the Avon, the felling of trees, the groundwater regime and any proposed SUDS features, ponds or watercourses including the lade.

Response: Noted and appropriately worded conditions would be incorporated into any consent granted requiring the submission of a slope stability analysis on the area from the building to the River Avon as requested.

- 4.5 **SEPA** – initially objected to the proposal on the grounds that it could place buildings and persons at risk contrary to the provisions of national policy guidance and advice. However, further information was submitted which indicates that the development is likely to be at low-medium flood risk and in accordance with SPP7, therefore, SEPA have removed their objection. SEPA also noted their requirements in relation to foul drainage, construction pollution prevention, domestic waste issues and the Water Environment (Controlled Activities) (Scotland) Regulations 2005.

Response: Noted and appropriately worded conditions and informatives would be incorporated into any consent granted to address the additional matters raised.

- 4.6 **Scotland Gas Networks** - have no objections to the proposal, however, they have submitted information highlighting the location of their apparatus in the area.

Response: Noted and this information would be passed on to the applicant.

- 4.7 **Scottish Water** – have no objections to the application subject to the provision of an acceptable sewerage system within the site. They have confirmed that Strutherhill Waste Water Treatment Works currently has capacity to service the proposed development. However, they have also advised that there may be issues within their Waste Water Network that serves the development and the developer will be required to provide a solution that would prevent or mitigate any further impact.

Response: Noted and appropriately worded conditions and informatives would be incorporated into any consent granted to ensure the provision of an acceptable sewerage system within the site.

- 4.8 **Scottish Natural Heritage** – have no objections to the application, however they have advised of the duty on the planning authority to ensure any impacts of the proposal on European Protected Species (EPS) and protected species other than EPS have been considered prior to the grant of planning permission. In terms of the Protected Species Survey submitted SNH are satisfied that the survey followed

accepted methods and appears to be a comprehensive investigation of the presence of bats and badgers at this locality. The survey found no evidence of bats at the locality and found some evidence that badgers are in the vicinity of the development but not within the 50 metre buffer zone. SNH made several recommendations should bat roosts or badgers be found during construction works. SNH also suggest that should works be delayed for more than six months from the date of the survey, a further survey for the presence of bats and badgers should be conducted.

Response: Noted and appropriately worded conditions and informatives would be incorporated into any consent granted to address the matters raised.

5 Representation(s)

5.1 Neighbour notification procedures were undertaken and the application was advertised in the Hamilton Advertiser as Development Potentially Contrary to the Development Plan and as Development Affecting the Setting of a Listed Building. Four letters of objection were received. The grounds of objection are summarised as follows:

(a) **Any extension to the Toll House would detract from and completely change the character of the building, the Avon Bridge, the view downstream from the Old Avon Bridge and the surrounding area. The restoration of an historic listed building should not depend on funding from a commercial development of two new dwellings but be realised through grants and/or public funds (i.e. lottery funds).**

Response: Whilst the application under consideration relates to the erection of a dwellinghouse on land adjacent to the Toll House it should be noted that neither Historic Scotland, the Scottish Civic Trust or the AHSS raised any objections to the proposed renovation and extension of the Toll House under the assessment of Planning Application HM/07/0675. In terms of funding the restoration works SPP23 states that it may be appropriate to consider enabling development if this can be shown to be the only means of retaining a listed building.

(b) **The two residential properties would be erected on sites located in the Green Belt and within an area of outstanding natural beauty. Their development would have a grave impact on the flora and fauna of the Avon Gorge and unlike the old Watermill would look completely out of place.**

Response: The principle of the proposal is discussed in detail in Section 6 of this report.

(c) **As neighbours who operate a breeding and boarding kennels and cattery our livelihood is threatened by the continued development of Green Belt sites around us.**

Response: The operation of the above business is not a valid planning consideration.

(d) **The access for emergency and heavy goods vehicles for properties located to the south of the old Avon Bridge is via a right of way through the proposed development which should be kept clear at all times. The junction of this right of way with the Carlisle Road is in a blind bend and with increased traffic could become dangerous.**

Response: Subject to the conditions discussed in Section 4.4 above Roads and Transportation Services are satisfied that the proposal raises no access

or road safety issues. However, the applicant is aware of the requirement to allow access for emergency and heavy goods vehicles along this right of way.

- (e) **There is an interdict in force against the applicant from using a section of the access road in any way. The Ross Estate was not approached prior to submission of the application and access for the actual development work and thereafter to the developed site cannot be taken without the permission of the Ross Estate.**

Response: These are legal matters which require to be addressed between the parties concerned.

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

6 Assessment and Conclusions

- 6.1 The determining issues in consideration of this application are its compliance with national and local plan policy and its impact on the Green Belt, the character and setting of the adjacent Grade A listed Avon Bridge and the amenity of adjacent properties.
- 6.2 The proposal relates to the erection of a single dwellinghouse on land referred to as 'Plot A' which is located to the west of the Toll House off Carlisle Road in Ferniegair. With regard to the assessment of the proposal it should be noted that the application was submitted in tandem with an accompanying outline application for the erection of a single dwellinghouse on an adjacent site referred to as 'Plot B' and is intended as part of a funding strategy to enable the restoration and extension of the Toll House. In terms of national planning policy, SPP1 - The Planning System, SPP21 – Green Belts and SPP23 – Planning and the Historic Environment are considered relevant to the assessment of this application.
- 6.3 SPP1 states that the determination of planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. It goes on to say that in all cases, planning permission should only be refused where, whether because of the policies in place or other material considerations, there are sound reasons for doing so. SPP21 states that Green Belts will continue to play a key role in managing change in Scotland's towns and cities and once in place should be robustly protected. There should continue to be a strong presumption against inappropriate development. SPP23 states that it may be appropriate to consider enabling development if this can be shown to be the only means of retaining a listed building. In such cases, development must be managed carefully and a high quality end product achieved which protects the listed building and its setting and is the minimum necessary to enable its conservation and re-use. The new development should be designed to retain and enhance the special interest, character and setting of the listed building. In this instance, it is considered that there are material considerations which would justify a departure from the Development Plan and these material considerations are discussed in detail below.
- 6.4 In terms of local plan policy, the proposal can be assessed against Policies STRAT 3 – The Green Belt and Urban Settlements in The Green Belt Policy, ENV 23 - Listed Buildings, ENV 31 - New Housing Development and DM 1 – Development Management Policy in the adopted South Lanarkshire Local Plan. Policy STRAT 3 seeks to direct development to within urban settlements in the Green Belt whilst allowing the Green Belt to continue to function as an area for agriculture, forestry and other appropriate uses. Policy ENV 23 states that Development affecting a listed building or its setting, shall preserve the building or its setting, or any features of

special architectural or historic interest which it has. The layout, design, materials, scale, siting and use of any development shall be appropriate to the character and appearance of the listed building and its setting. Policies ENV 31 and DM 1 generally require all development to take account of the layout, form, design and local context of the area.

- 6.5 The supporting planning statement submitted with the application incorporates a detailed cost analysis which concludes that if the restoration of the adjacent Toll House is to be successfully achieved some form of enabling development is required to fund the restoration project. On this basis it is proposed that the proceeds from the sale of two house plots, Plot A and Plot B, would be utilised to offset the costs of renovation. Given the content of the above policies a balanced judgement requires to be made weighing up the benefits of the development for the heritage asset against the potential adverse impact on the setting of the adjacent listed Avon Bridge and the compromising effect on the Council's Green Belt policy. In this instance, it is considered that the material considerations associated with the proposal justify a departure from the Development Plan.
- 6.6 The adjacent Toll House has remained vacant and in a derelict condition for a number of years and is included on the Scottish Civic Trust National Register of Buildings at Risk. It is accepted that there is an urgent need to restore the listed building and that some form of enabling development is required to fund the proposed restoration project and for heritage reasons, it is my opinion that the need to restore the listed building would justify a departure from the Development Plan to enable the development of a sensitively designed low impact scheme on the site. Having assessed the detailed cost analysis submitted it is considered that the approval of this application would enable the proceeds from the sale of Plot A to be utilised to offset the costs of renovation of the building. As the application is for outline planning consent appropriately worded conditions could be incorporated into any consent granted to ensure that any dwellinghouse erected on the site would be designed in a sensitive manner to take account of the site's Green Belt location and the setting of the adjacent listed bridge. It should be noted that any consent would be withheld until a Section 75 Agreement between the Council and the applicant has been concluded to ensure the restoration of the Toll House with the Council's legal expenses in connection with the Agreement being borne by the applicant.
- 6.7 In summary, the proposal to erect a dwellinghouse on the site is contrary to the adopted South Lanarkshire Local Plan as the application site is designated as Green Belt land. However, it is considered that a departure from the Development Plan is justified in this instance for the following reasons:
1. The proposal would act as an enabling development to secure funding for the restoration of the adjacent Category B listed Toll House which has remained vacant and in a derelict condition for a number of years.
 2. Any dwellinghouse erected on site would be designed in a sensitive manner to take account of the site's Green Belt location and the setting of the adjacent Category A listed Avon Bridge.
 3. The site can be safely accessed with adequate levels of car parking provision and the proposal raises no significant environmental or infrastructure issues.

7 Reasons for Decision

- 7.1 For the reasons stated in Section 6.7 above.

Iain Urquhart
Executive Director (Enterprise Resources)

18 May 2009

Previous References

HM/07/0690
HM/07/0685
HM/07/0675

List of Background Papers

- ▶ Application Form
- ▶ Application Plans

- ▶ Consultations
 - Roads and Transportation Services (Hamilton Area) 10/10/2007
 - Environmental Services 18/10/2007
 - Scottish Water 18/10/2007
 - Scottish Natural Heritage 12/10/2007
 - Historic Scotland 13/11/2007
 - TRANSCO (Plant Location) 18/10/2007
 - S.E.P.A. (West Region) 28/05/2008
 - S.E.P.A. (West Region) 25/07/2008

- ▶ Representations
 - Representation from : G Goodridge-Cox, Avonmill House, HAMILTON, ML3 7UH, DATED 08/10/2007
 - Representation from : Mrs Catherine L Braithwaite, The Bungalow, Avon Mill, Hamilton, ML3 7UH, DATED 01/10/2007
 - Representation from : Wilf Vangenechten, Avon Bridge Lodge, Hamilton, ML3 7DB, DATED 10/10/2007
 - Representation from : John Y Robertson, Solicitors & Estate Agents, 24 Cadzow Street, Hamilton, ML3 6DG, DATED 10/10/2007

Contact for Further Information

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

Jim Blake, Planning Officer, Brandon Gate, Hamilton
Ext 3508 (Tel :01698 453508)

E-mail: Enterprise.hamilton@southlanarkshire.gov.uk

CONDITIONS

- 1 That the development hereby permitted shall be started either within five years of the date of this permission or within two years of the date on which the last of the reserved matters are approved, whichever is the later;
- 2 That before the expiration of three years from the date of this outline permission and before any development starts, a written application and plans in respect of the following Reserved Matters shall be submitted to the Council as Planning Authority:
 - (a) a site layout plan at a scale of [1:500] showing the position of all buildings, roads, footpaths, parking areas, walls, fences, landscaping;
 - (b) plans and elevations of the proposed house and garage type showing their dimensions and type and colour of materials;
 - (c) a landscaping plan at a scale of [1:500] showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
 - (d) detailed cross-sections of existing and finished ground levels and finished floor levels, in relation to a fixed datum, preferably ordnance datum.
- 3 That the design and siting of any dwellinghouse on the site shall take due cognisance of the rural location next to adjacent listed buildings, with particular regard being paid to scale, massing, roof pitch, fenestration and materials; and shall be in accordance with the Council's approved policy on new dwellings in the Green Belt/Countryside.
- 4 That the further application required under the terms of Condition 2 above shall include written confirmation from Scottish Water to the Council as Planning Authority that the site can be satisfactorily served by a sewerage scheme. The developer shall be responsible for all costs involved in upgrading the existing public sewerage system to serve the residential development at this site. No dwellinghouse within the site shall be occupied until the upgrading works have been completed to the specification and satisfaction of Scottish Water as the Water and Sewerage Authority.
- 5 That no dwelling to be erected on the site shall exceed two storeys in height.
- 6 That the further application required under the terms of Condition 2 above, shall include details of surface water drainage arrangements and such drainage arrangements will require to comply with the principles of sustainable urban drainage systems.
- 7 That the further application required under the terms of Condition 2 shall include a detailed layout of the proposed car parking in accordance with the following guidelines:
 - 2 bedroom house – two parking spaces
 - 3 bedroom house – two parking spaces
 - 4 bedroom house – three parking spacesUnder current S.L.C guidelines a single garage does not count as a space, a double garage counts as one space.
- 8 That the access road shall be surfaced in for a distance of 10 metres from the

channel line off Carlisle Road to the satisfaction of the Council as Planning and Roads Authority.

- 9 That the recommendations included in the Protected Species Survey produced by Acorna Associates Ltd shall be adhered to prior to and during construction works.
- 10 That a further bat survey shall be conducted no more than 6 months prior to work commencing on site.
- 11 That no further changes in ground levels within the site shall take place without the prior written consent of the Council as Planning Authority.
- 12 That before the dwellinghouse hereby approved is completed or occupied, a visibility splay of 2.5 metres by 120 metres measured from the road channel shall be provided on both sides of the vehicular access and everything exceeding 0.9 metres in height above the road channel level shall be removed from the sight line areas and thereafter nothing exceeding 0.9 metres in height shall be planted, placed or erected within these sight lines.
- 13 That prior to works commencing on site, a slope stability analysis shall be carried out by a suitably qualified geotechnical engineer on the area from the building to the River Avon and approved by the Council as Planning Authority. The analysis shall be based on parameters and stratigraphy obtained by intrusive investigation and shall be backed by suitable public indemnity insurance. It shall take account of the effects of erosion by the Avon, the felling of trees, the groundwater regime and any proposed SUDS features, ponds or watercourses including the lade.
- 14 That no work shall commence on site until the slope stability analysis referred to under Condition 13 above has been approved by the Council as Planning Authority. Any development carried out shall be done in accordance with the requirements of the approved slope stability analysis.

REASONS

- 1 To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
- 2 Consent is granted in outline only.
- 3 In the interests of amenity and to ensure satisfactory integration of the new dwellings with the designated Green Belt.
- 4 To ensure the provision of a satisfactory sewerage system
- 5 In the interests of amenity.
- 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 off-site flooding.
- 7 To ensure the provision of adequate parking facilities within the site.
- 8 To prevent deleterious material being carried onto the highway.
- 9 To ensure the protection of existing habitats within the site.
- 10 To ensure that there is no adverse impact on European Protected Species.
- 11 In order to retain effective planning control.
- 12 In the interests of road safety.
- 13 To ensure that the proposed dwellinghouse is protected in the long term from possible ground movements related to slope stability and the influence of vegetation and river erosion.

For information only

For information only

