

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>5 May 2020</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/20/0179
Planning proposal:	Section 42 application to vary condition 2 of Planning Permission CL/16/0482 (Leisure Development comprising 18 hole golf course, 200 bedroom hotel, leisure building incorporating pool, solarium, sauna, gym, squash and ancillary catering facilities, outdoor sport and leisure, holiday log cabins and lodges, equestrian centre, polo pitch and equine exercise area)

## 1 Summary application information

Application type:	Further application
Applicant:	Kersewell Plc (c/o agent)
Location:	Kersewell Mains Farm A70 From Carnwath To Boundary By Tarbrax Carnwath Lanark ML11 8LG

## 2 Recommendation(s)

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

- (1) Grant detailed planning permission (subject to conditions) based on conditions attached

### 2.2 Other actions/notes

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

## 3 Other information

- ◆ Applicant's Agent: Lesley McGrath
- ◆ Council Area/Ward: 03 Clydesdale East
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan**  
Policy 1 Spatial strategy  
Policy 2 Climate change  
Policy 3 Green belt and rural area  
Policy 4 Development management and placemaking

Policy 7 Employment  
Policy 15 – Natural and Historic Environment

**Proposed South Lanarkshire Local  
Development Plan 2**

Policy 1 Spatial Strategy  
Policy 2 Climate change  
Policy 4 Green Belt and Rural Area  
Policy 5 Development Management and  
Placemaking  
Policy 8 Employment  
Policy 14 – Natural and Historic Environment

♦ **Representation(s):**

▶	0	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

♦ **Consultation(s):**

None required

## **Planning Application Report**

### **1 Application Site**

- 1.1 The application site consists of an extensive area of agricultural land and mixed woodland (approximately 193 hectares in area) situated between the A70 and the North Medwyn River, approximately 1½km to the north-east of Carnwath.
- 1.2 The southern section of the site is characterised by semi-natural woodland and conifer plantations interspersed by open areas of clear felled trees and enclosed fields of improved pasture and marshy grassland. An access road leads from the A70 past a lodge house through woodland areas to the settlement of Kersewell. The central section comprises mainly of large, open agricultural fields bounded by woodland belts. Conifer woodlands adjoin the boundary with the A70. A track leads from the A70 to a derelict quarry which sits on top of a knoll at the highest contour point within the site. There are steep sloping fields adjoining the western boundary which are being used for arable planting. The northern section includes large enclosed fields marked by woodland belts, fences and stone walls. A conifer woodland borders the A70. This area also includes Kersewell Mains Farm which incorporates a traditional stone-built farmhouse and byres.
- 1.3 Within the site there are a number of culverts and burns which drain surface water down to the North Medwyn. Topographically, the ground slopes in an east/west orientation from the A70 down to the North Medwyn, however, the ground does rise in the centre to a high point of 278m at the quarry location. The site is bounded to the north by the Medwyn Gorge Valley, Backmoor Wood and a moorland containing cairns and other archaeological sites. To the west, it adjoins the A70 and three houses (North Lodge, Kersewell Mains Cottage and Windygates) and beyond by moors, agricultural fields, woodland, a house and a Girl Guide Centre. To the south, there are agricultural fields and a minor road linking the A70 with Kaimend and the A721. To the east, the site adjoins woodland beyond which is Kersewell and fields and woodland which slope down to the North Medwyn River.

### **2 Proposal(s)**

- 2.1 This application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary condition 2 attached to a previous section 42 approval CL/16/0482, granted in February 2017, for a leisure development comprising an 18 hole golf course, 200 bedroom hotel, leisure building incorporating pool, solarium, sauna, gym, squash and ancillary catering facilities, outdoor sport and leisure, holiday log cabins and lodges, equestrian centre, polo pitch and equine exercise area. That permission in turn involved the approval of the variation of conditions 1, 2, and 7 of Consent CL/13/0455 (see Planning Background para 3.3).
- 2.2 The relevant planning condition which the applicant seeks to vary in this case is worded as follows –

*That unless otherwise agreed by the Council, before development starts on any part of each individual development phase, further applications shall be submitted to and approved in writing by the Council as Planning Authority in respect of the following matters specified in this condition in that phase, and all of which shall accord with the general principles set out in the approved masterplan required under condition 1 above:*

- *the precise location, scale and quantity of individual uses;*
- *the siting, design, massing, height and external appearance of all buildings and other structures;*
- *the means of access to the site;*
- *the layout of the site including all roads, footways, cycle ways, servicing and parking areas;*
- *details of existing and proposed site levels;*
- *the provision of drainage works and the disposal of sewage and;*
- *a landscaping plan incorporating details of the hard and soft landscaping, which shall include*
  - *details of ground preparation works*
  - *existing and finished ground levels*
  - *a plan indicating the existing trees on site, and a report detailing height, species, base level and condition and whether they will be lopped, topped, felled or retained*
  - *layout and design, including walls, fences and gates.*
  - *the location, species number, density and size of new trees, shrubs, and hedges.*
- *The maintenance of landscaping within each phase*
- *The supply of water*
- *The treatment of surface water*
- *Updated ecology and habitat surveys as agreed as necessary by the Council.*

*Any subsequent revisions to the individual development phases (including all the supporting information) shall be submitted for the approval of the Council as Planning Authority.*

- 2.3 It is proposed to vary the condition so that an additional requirement for further applications includes details of external lighting, including floodlighting and street lighting arrangements for the development.
- 2.4 An Ecology Survey Report, Badger/Otter Survey, Bat Survey and letter statement from Findlay Ecology have been submitted as supporting information.

### **3 Background**

#### **3.1 Local Plan Status**

- 3.1.1 In the adopted South Lanarkshire Local Development Plan, the site is located in the rural area where Policy 3 - Green Belt and Rural Area applies. In addition, Policies 1- Spatial Strategy, 2- Climate Change, 4 - Development Management and Place Making, 7 – Employment and Policy 15 – Natural and Historic Environment are relevant. Supplementary Guidance on Development Management, Placemaking and Design, Sustainable Development and Climate Change, Natural and Historic Environment and Green Belt and Rural Area are also relevant.

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

- 3.2.1 Scottish Planning Policy (SPP) encourages rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.

### **3.3 Planning Background**

- 3.3.1 Planning Permission in Principle CL/05/0439 was granted on 25 March 2011 for a hotel, leisure, golf course and chalet development. The consent was subject to a section 75 agreement to control the phasing of the development. A discharge of Planning Obligation CL/14/0101 was granted in April 2014.
- 3.3.2 A section 42 application CL/13/0455 to extend the period for the submission of matters of approval conditions attached to the Planning Permission in Principle was granted in February 2014.
- 3.3.3 A Section 42 approval CL/16/0482 was granted in February 2017 to vary Conditions 1, 2 and 7 of Consent CL/13/0455 for Leisure Resort Development to amend timescale for submission of ecological studies and surveys. Reference to ecology and habitat surveys was omitted entirely from condition 1. Condition 2 was varied to take account of potential changes to the masterplan resulting from recommendations contained in the ecological reports. In addition, condition 7 was re-worded to address this matter as a separate issue requiring the survey information to be submitted within 18 months of the date of the consent or 6 months of the date of the submission of the masterplan required by condition 1, whichever is the sooner. This was to give the applicant the necessary flexibility to carry out this work but ensure control over the development.

### **4 Consultation(s)**

- 4.1 No consultation was required on this application

### **5 Representation(s)**

- 5.1 Following the carrying out of statutory neighbour notification and advertisement of the proposal in the local press due to the non-notification of neighbours, no representations were received.

### **6 Assessment and Conclusions**

- 6.1 The applicant has made an application to vary condition 2 attached to previous permission CL/16/0482 which granted a further Permission in Principle for a major leisure development at Kersewell Mains just outside Carnwath. In this case, the applicant is seeking to vary the said condition to ensure details of external lighting arrangements which take account of protective species and sensitive habitats are included in future applications for Approval of Matters Specified in Conditions. Section 42 of the Town and Country Planning (Scotland) Act, as amended, is clear that the Planning Authority, in determining applications made under this part of the legislation, shall consider only the conditions attached to the original planning permission and subsequent associated permissions in the further application. The original permission CL/05/0439 established the principle of development and it is, therefore, not necessary to revisit this matter when assessing the current proposal.
- 6.2 Ecological surveys submitted to comply with condition 7 attached to Planning Permission CL/16/0482 identified badgers, bats, barn owl and areas of semi-natural woodland. Therefore, it is important in the interests of the natural heritage that external lighting is designed and located to avoid light spillage impact upon sensitive habitats and protected species. This variation is supported by Findlay Ecology Services who carried out the ecological survey across the site. This in turn supports Policy 15 – Natural and Historic Environment in the adopted South Lanarkshire

Local Development Plan and associated Supplementary Guidance which seeks to ensure there will be no adverse impact on protected species.

- 6.3 On 29 May 2018, the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. Therefore the Proposed SLLDP2 is now a material consideration in determining planning applications. The proposed development has been considered against the relevant policies in the proposed plan and it is noted that these policies are broadly consistent with the current adopted South Lanarkshire Local Development Plan 1. It is considered that the proposals accord with Policies 1, 2, 4, 5, 8 and 14 in the proposed plan.
- 6.4 Overall, the suggested change to condition 2 does not alter the intent or purpose of the original permission and will ensure the impact of any development on habitats and ecology will be fully considered. The proposal therefore complies with Policies 1, 2, 3, 4, 7 and 15 and Supplementary Guidance on Development Management, Placemaking & Design, Sustainable Development and Climate Change, Natural and Historic Environment and Green Belt and Rural Area. As a result, it is recommended the application be granted.

## **7 Reasons for Decision**

- 7.1 The proposal complies with Policies 1, 2, 3, 4, 7 and 15 and Supplementary Guidance on Development Management, Placemaking & Design, Sustainable Development and Climate Change, Natural and Historic Environment and Green Belt and Rural Area.

**Michael McGlynn**

**Executive Director (Community and Enterprise Resources)**

Date: 7 April 2020

### **Previous references**

- ◆ CL/16/0482
- ◆ CL/14/0101
- ◆ CL/13/0455
- ◆ CL/05/0439

### **List of background papers**

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 20 February 2020

**Contact for further information**

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

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Email: [ian.hamilton@southlanarkshire.gov.uk](mailto:ian.hamilton@southlanarkshire.gov.uk)

## Detailed planning application

Paper apart – Application number: P/20/0179

### Conditions and reasons

01. That unless otherwise agreed by the Council as Planning Authority prior to the submission of any applications for the approval of matters specified in conditions (as required by condition 2 below), a masterplan application shall be submitted for the approval of the Council as Planning Authority. The masterplan shall include the following details:

- the location of individual development phases and details of the forms and uses of development within each phase ;
- the layout of the site including all roads, footways, cycle ways, car and cycle parking and servicing areas;
- the location of woodland and public open spaces;
- opportunities for the protection and enhancement of the Green Network including links to the wider countryside by means of walking, cycling and horse riding.

It shall be accompanied by the following supporting information:

- An updated Transport Assessment;
- A phasing plan;
- A design framework that shall consider and provide an explanation for the proposals in terms of the following:
  - layout, streets and spaces, accessibility, safety and security, sustainability and energy efficiency;
  - Impact on the landscape;
  - Scale, density and mix of each of the development phases;
  - Design, massing and materials;
  - Maintenance including details of arrangements for landscaping, drainage and open space;
- a waste management plan;
- a woodland management and maintenance strategy;
- a Drainage Assessment and strategy (incorporating sewerage disposal and surface water drainage) and Flood Risk assessment
- a strategy for the supply of water
- an archaeological mitigation strategy
- a habitat management and construction strategy.

Any subsequent revisions to the masterplan (including the supporting information listed above) shall be submitted for the approval of the Council as Planning Authority.

Reason: These details have not been provided or approved.



02. That unless otherwise agreed by the Council, before development starts on any part of each individual development phase, further applications shall be submitted to and approved in writing by the Council as Planning Authority in respect of the following matters specified in this condition in that phase, and all of which shall accord with the general principles set out in the approved masterplan required under condition 1 above:

- the precise location, scale and quantity of individual uses;
- the siting, design, massing, height and external appearance of all buildings and other structures;
- the means of access to the site;
- the layout of the site including all roads, footways, cycle ways, servicing and parking areas;
- details of existing and proposed site levels;
- the provision of drainage works and the disposal of sewage and;
- a landscaping plan incorporating details of the hard and soft landscaping, which shall include
  - details of ground preparation works
  - existing and finished ground levels
  - a plan indicating the existing trees on site, and a report detailing height, species, base level and condition and whether they will be lopped, topped, felled or retained
  - layout and design, including walls, fences and gates.
  - the location, species number, density and size of new trees, shrubs, and hedges.
- The maintenance of landscaping within each phase
- The supply of water
- The treatment of surface water
- Updated ecology and habitat surveys as agreed as necessary by the Council
- Details of external lighting, including floodlighting and street lighting arrangements for the development which accords with Bat Trust Guidance note 08/18 (<https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting>)

Any subsequent revisions to the individual development phases (including all the supporting information) shall be submitted for the approval of the Council as Planning Authority.

Reason: These details have not been provided or approved.

03. Unless different specifications arise as a result of the updated Transport Assessment required under condition 1 above then the masterplan application above shall include provision for:

- (a) a 2 metre wide footway along the entire A70 site frontage with a pedestrian crossing point linking this to the existing footways;
- (b) a visibility splay of 9 metres by 215 metres at the northern access point with a right hand storage lane designed to comply with the Design Manual for Roads and Bridges;

- (c) vehicular access shall be solely restricted from the A70 to the northern access point with the central and southern accesses closed to traffic;
- (d) the access onto the A70 shall be 7.3 metres wide;
- (e) the A70/Stanemuir Road junction improvements resulting in a 9 metres by 215metres visibility splay to the right;
- (f) a drainage system capable of preventing any water from flowing onto the public road or into the site from surrounding land, provided and maintained at the applicants expense; and
- (g) the submission of a Travel Plan to encourage public transport and reduce reliance on private cars.

Reason: In the interest of public safety.

04. That no trees within the application site shall be lopped, topped, pollarded or felled, or otherwise affected, without the prior written consent of the Council as Planning Authority.

Reason: To ensure the protection and maintenance of the existing mature trees within the site.

05. That unless otherwise agreed by the Council as Planning Authority before the commencement of work on site the management practices for the use of pesticides, herbicides and fertilisers within the proposed golf course and other landscaped areas shall be submitted to and approved by the Council as Planning Authority in consultation with SEPA.

Reason: In the interests of pollution control.

06. That unless otherwise agreed by the Council as Planning Authority, the further applications for the approval of matters specified in conditions (as required by condition 2 above) shall include a survey and assessment of the impact of the proposed development upon the hydrology, habitats and ecology of all water courses within the site shall be carried out by a suitably qualified person and submitted to the Council as Planning Authority in consultation with SEPA and SNH. The report shall fully consider the impact upon aquatic plants, fish, amphibians, invertebrates and birds and mammals with habitats alongside watercourses with particular regard given to water voles, otters, Kingfishers, Sandmartins and common water-crowfoot. Any mitigation that is recommended by this report to minimise impacts upon the hydrology and ecology of water courses shall be implemented to the entire satisfaction of the said Authority.

Reason: To minimise the impacts on the hydrology and ecology of water courses which cross the application site.

07. That recommendations and mitigation measures detailed in CL-16-0482 Ecology Surveys Report (Findlay Ecology Services, June 2018) and associated appendices 1'Bat Survey Proposed Site for Leisure Resort Kersewell Mains (June

2018)' and 2 ' Badger and Otter Survey Results June 2018' shall be fully complied with to the satisfaction of the Council as Planning Authority.

Reason: To minimise risk to protected species and habitats and to ensure legal compliance with the requirements of the Protection of Badgers Act 1992, Wildlife and Countryside Act 1981, Nature Conservation (Scotland) Act 2004 and Conservation (Natural Habitats & c) Regulations 1994.

08. That unless otherwise agreed by the Council as Planning Authority, the further applications for the approval of matters specified in conditions (as required by condition 2 above) shall include a Phase 1 or Desk Study, to review all currently available information about the historical uses of this site, shall be carried out to determine any types of contamination likely to be encountered and possible pathways to sensitive receptors shall be submitted to and approved by the Council as Planning Authority. If this investigation gives any indication of the potential for contaminants to be present, development shall not begin until a full intrusive survey has been carried out and its findings submitted to and, approved by the Council as Planning Authority. This survey shall clearly document the methodology, findings and results. The risks posed by the presence of pollutants in relation to sensitive receptors shall be assessed to current guidelines and, where appropriate recommendations for further investigations or remediation options to reduce these risks identified.

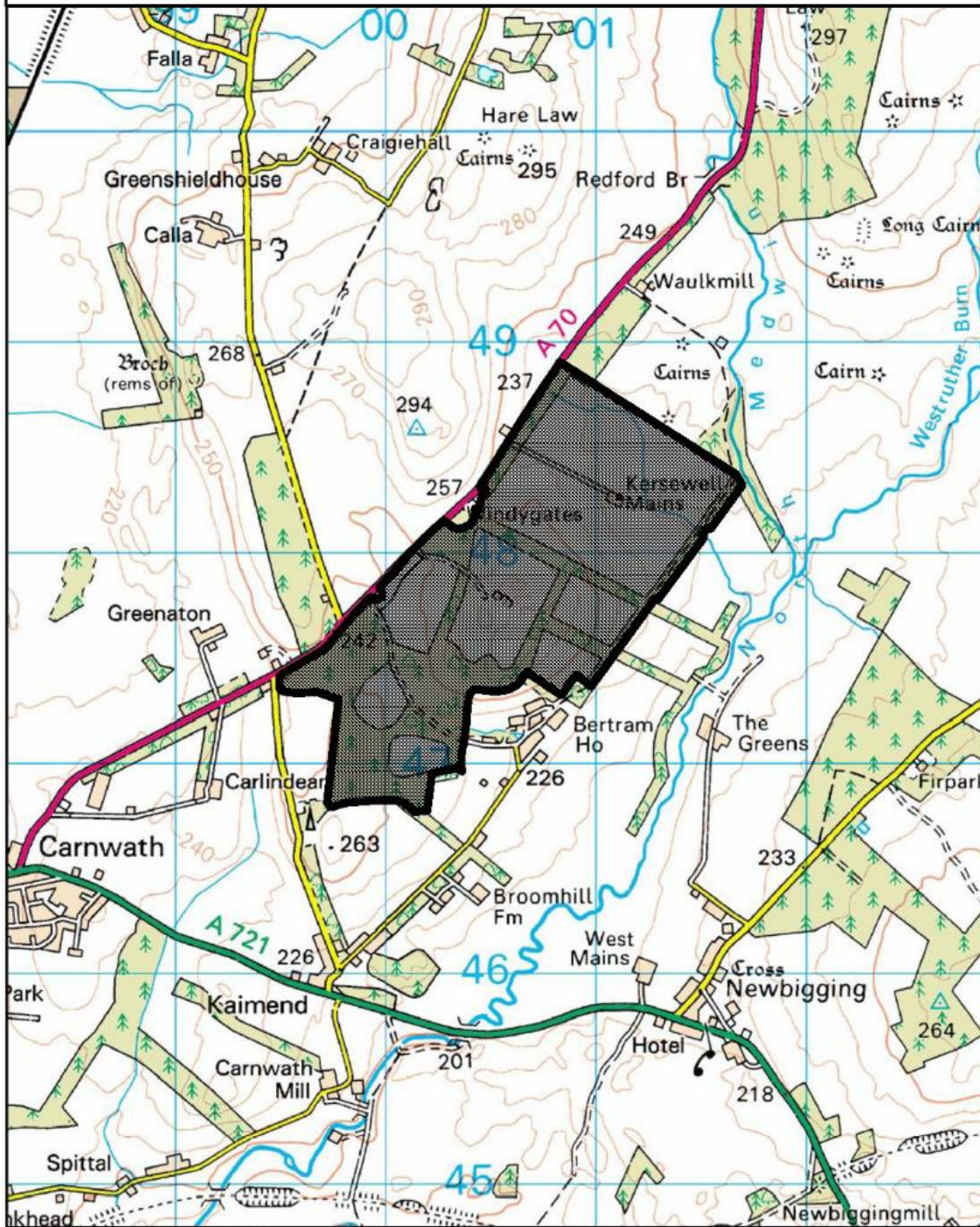
Reason: To ensure the site is free of contamination and suitable for development.

09. That the use of the tourist accommodation hereby approved shall be restricted to holiday occupation only and shall not be let or used as the sole residence of any one person, family or group. No individual, family, company, group or any other type of occupant shall occupy the accommodation for more than 12 weeks in any calendar year.

Reason: To ensure that the economic benefit of this tourism development is not lost by the accommodation becoming occupied by long term or permanent residents and to ensure compliance with local plan policy

P/20/0179

Kersewell Mains Farm, A70 from Carnwath to Boundary by Tarbrax, Carnwath



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Scale:  
1:25,000  
Date:  
07/04/2020



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