

Report

Report to:	Planning Committee
Date of Meeting:	10 March 2020
Report by:	Executive Director (Community and Enterprise Resources)

Subject	Review of Legacy Planning Applications
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1. Purpose of Report

1.1 The purpose of the report is to:-

- Advise the Committee of planning applications which it had agreed to approve but for which consents have not yet been issued due to delays or failures to complete the associated Planning Obligations;
- Seek Committee approval to deal with these planning applications as recommended in Appendix 1.

2. Recommendation(s)

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

- (1) That in respect of each of the planning applications listed in Appendix 1, the Committee approve the associated recommendation.

3. Background

- 3.1 In respect of planning applications where some aspects of a development cannot be controlled by planning conditions, Section 75 of the Town and Country Planning (Scotland) Act 1997 allows Planning Authorities to control and manage development by concluding legal agreements which place Planning Obligations on the applicant and landowner. In these cases, the issue of consent is withheld until the legal agreement is concluded and registered against the landowner's title deeds.
- 3.2 A Planning Obligation can relate to a number of matters such as the control of off-site road works, provision of affordable housing or a financial contribution towards recreational or educational provision. Whilst it is anticipated that action to agree and execute a Planning Obligation would be undertaken reasonably quickly, there are instances where delays occur.
- 3.3 In 2012, the Scottish Government, following consultation with Heads of Planning Scotland, introduced the Planning Performance Framework. A key aim of the Framework is to monitor the time taken by Planning Authorities to process applications from the date of validation to the date of issue of consent. This is with a view to improving the timescales of the decision making process. However, the non-completion of a Planning Obligation can prevent the Council from issuing consent and thus impact adversely on the Council's performance.

4. Planning Performance Framework Requirements

- 4.1 The Scottish Government expects local developments and major developments to be determined within 2 months and 4 months respectively. It also assesses the Planning Service's performance on the basis of the average time taken for applications to be determined. Furthermore the Scottish Government is encouraging local authorities to enter into Processing Agreements for major applications. This seeks to establish a timescale in which a decision can be agreed with applicants. Related to this, it is considered appropriate that time limits should be imposed on applicants and landowners for applications that require the completion of a Planning Obligation. This will ensure the final stage in the application process, that of issuing consent, is not markedly beyond the date on which the Committee has made its decision to grant permission, and that the Planning Obligation remains relevant.

5. Current Applications with Outstanding Legal Agreements

- 5.1 Recently, the Planning Service has carried out a review of legacy planning applications i.e. those planning applications that are over a year old that have Planning Obligations that have not been concluded. The applicants and agents of those applications, where little or no progress has been made, have been contacted in order to seek the conclusion of this matter and allow the decision notice to be issued.
- 5.2 From this review, there are currently 4 applications where a Planning Obligation has been deemed necessary and where, it is considered, there has been little progress made. Given the lengthy delays that have occurred, and with repeated approaches from Planning, it seems unlikely that these planning applications will be concluded in the near future, if at all. These circumstances lead to uncertainty and have an adverse impact on Council Performance.
- 5.3 The relevant applications are detailed in Appendix 1 which is attached to this report. These applications fall into 2 categories:-

- i) Applications where it is understood the applicant is no longer operating and there is no legal entity with whom to negotiate an agreement.

In respect of these applications as the Planning Authority has no power to withdraw the application unilaterally and as there is no legal entity to withdraw the application or conclude the Planning Obligation, it is recommended that these applications be refused for the reasons summarised in Appendix 1.

- ii) Applications where the applicant is refusing or delaying to conclude the Planning Obligation.

In respect of these applications, as the failure to conclude the Planning Obligation rests with the applicant and an excessive time period has already been allowed by the Council to conclude this matter, it is recommended that the applications be refused for the reasons summarised in Appendix 1.

- 5.4 In order to determine each of the relevant applications, Committee are requested to approve the recommendations contained in Appendix 1. The relevant category associated to each planning application, from the list detailed above, is also detailed under Category of Planning Application within the Appendix.

6. Employee Implications

- 6.1 There are no employee implications. Any work undertaken can be met from existing resources.

7. Financial Implications

7.1 None.

8. Climate Change, Sustainability and Environmental Implications

8.1 The planning system will have an increasingly key role in addressing the climate change agenda. Investing additional income in resources within the planning service will contribute to meeting these aims.

9. Other Implications

9.1 There would be a reputational risk if this was not undertaken as this action has previously been specified in the Council's Planning Performance Framework.

10. Equality Impact Assessment and Consultation Arrangements

10.1 The content of this report is not relevant to the Council's equalities duties and, therefore, no impact assessment is required.

Michael McGlynn

Executive Director (Community and Enterprise Resources)

27 February 2020

Link(s) to Council Objectives/Values/Ambitions

- Demonstrating governance and accountability
- The efficient and effective use of resources and managing and improving performance

Previous References

- None

List of Background Papers

- Planning Performance Framework 2012 - 2019

Contact for Further Information

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

Bernard Darroch, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB

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E-mail: Bernard.Darroch@southlanarkshire.gov.uk

Appendix 1

Application No:	HM/10/0414
Proposal:	Erection of 45 dwellinghouses and associated roads, drainage and landscaping works
Site Address:	Toftcombs Crescent, Stonehouse
Applicant:	Clydeview Developments Ltd
Date of Committee Approval:	14 December 2010
Category of Planning Application:	(i)

Background

Application presented to Committee in December 2010. Resolved to issue consent subject to a landscaping bond being agreed and lodged with the Council and a financial contribution for the improvement of Community Facilities being submitted.

Subsequently little progress was made and it was indicated that on submission of a further application, that this application would be withdrawn. No progress made and during the most recent conversation with the agent, it was indicated that the company who submitted the application are no longer operating.

Recommendation

Refuse detailed planning permission

Reasons for Refusal

The proposal is contrary to the terms of Policy 4 (Development Management and Placemaking), Policy 5 (Community Infrastructure Assessment) of the South Lanarkshire Local Plan (adopted 2015), Policy 5 (Development Management and Placemaking), Policy 7 (Community Infrastructure Assessment) of the proposed South Lanarkshire Local Development Plan (2018), Supplementary Planning Guidance - Residential Design Guide (2011), Supplementary Guidance 3 - Development Management Place Making and Design, Supplementary Guidance 4 – Community Infrastructure Assessment, as the appropriate contribution towards the upgrading of community facilities in the area and a landscaping bond has not been agreed and formalised through the completion of a Planning Obligation.

Application No:	HM/15/0261
Proposal:	Erection of 31 no. dwellinghouses and associated roads and drainage infrastructure and landscaping
Site Address:	Wellhall Road, Hamilton
Applicant:	Dundas Estates & Developments Co. Ltd
Date of Committee Approval:	17 November 2015
Category of Planning Application:	(ii)

Background

The application was presented to Committee in November 2015. Resolved to issue consent subject to a planning obligation to ensure payment of a financial contribution towards affordable housing, education provision and the improvement/upgrading of community facilities.

Whilst initial progress was made concerning the planning obligation, there has been little progress made since 2016. It now appears that there is little desire to conclude the planning obligation.

Recommendation

Refuse detailed planning permission

Reasons for Refusal

The proposal is contrary to the terms of Policy 4 (Development Management and Placemaking), Policy 5 (Community Infrastructure Assessment) of the South Lanarkshire Local Plan (adopted 2015), Policy 5 (Development Management and Placemaking), Policy 7 (Community Infrastructure Assessment) of the proposed South Lanarkshire Local Development Plan (2018), Supplementary Planning Guidance - Residential Design Guide (2011), Supplementary Guidance 3 - Development Management Place Making and Design, Supplementary Guidance 4 – Community Infrastructure Assessment, as the appropriate contribution towards affordable housing, education provision and the improvement/upgrading of community facilities has not been agreed and formalised through the completion of a Planning Obligation.

Application No:	HM/15/0470
Proposal:	Erection of 26 dwellinghouses with associated works and landscaping
Site Address:	Land to West of Toftcoombs Crescent, Stonehouse
Applicant:	Aspis Homes (Clyde Valley) Ltd
Date of Committee Approval:	1 November 2016
Category of Planning Application:	(ii)

Background

The application was presented to Committee in November 2016. Resolved to issue consent subject to a planning obligation to ensure payment of a financial contribution towards affordable housing, education provision and the improvement/upgrading of community facilities.

Whilst initial progress was made concerning the planning obligation, there has been little progress made since 2017. It now appears that there is little desire to conclude the planning obligation.

Recommendation

Refuse detailed planning permission

Reasons for Refusal

The proposal is contrary to the terms of Policy 4 (Development Management and Placemaking), Policy 5 (Community Infrastructure Assessment) of the South Lanarkshire Local Plan (adopted 2015), Policy 5 (Development Management and Placemaking), Policy 7 (Community Infrastructure Assessment) of the proposed South Lanarkshire Local Development Plan (2018), Supplementary Planning Guidance - Residential Design Guide (2011), Supplementary Guidance 3 - Development Management Place Making and Design, Supplementary Guidance 4 – Community Infrastructure Assessment, as the appropriate contribution towards affordable housing, education provision and the improvement/upgrading of community facilities has not been agreed and formalised through the completion of a Planning Obligation.

Application No:	HM/15/0471
Proposal:	Erection of 36 dwellinghouses with associated works and landscaping
Site Address:	Land To West Of Toftcombs Crescent, Stonehouse
Applicant:	Aspis Homes (Clyde Valley) Ltd
Date of Committee Approval:	1 November 2016
Category of Planning Application:	(ii)

Background

The application was presented to Committee in November 2016. Resolved to issue consent subject to a planning obligation to ensure payment of a financial contribution towards affordable housing, education provision and the improvement/upgrading of community facilities.

Whilst initial progress was made concerning the planning obligation, there has been little progress made since 2017. It now appears that there is little desire to conclude the planning obligation.

Recommendation

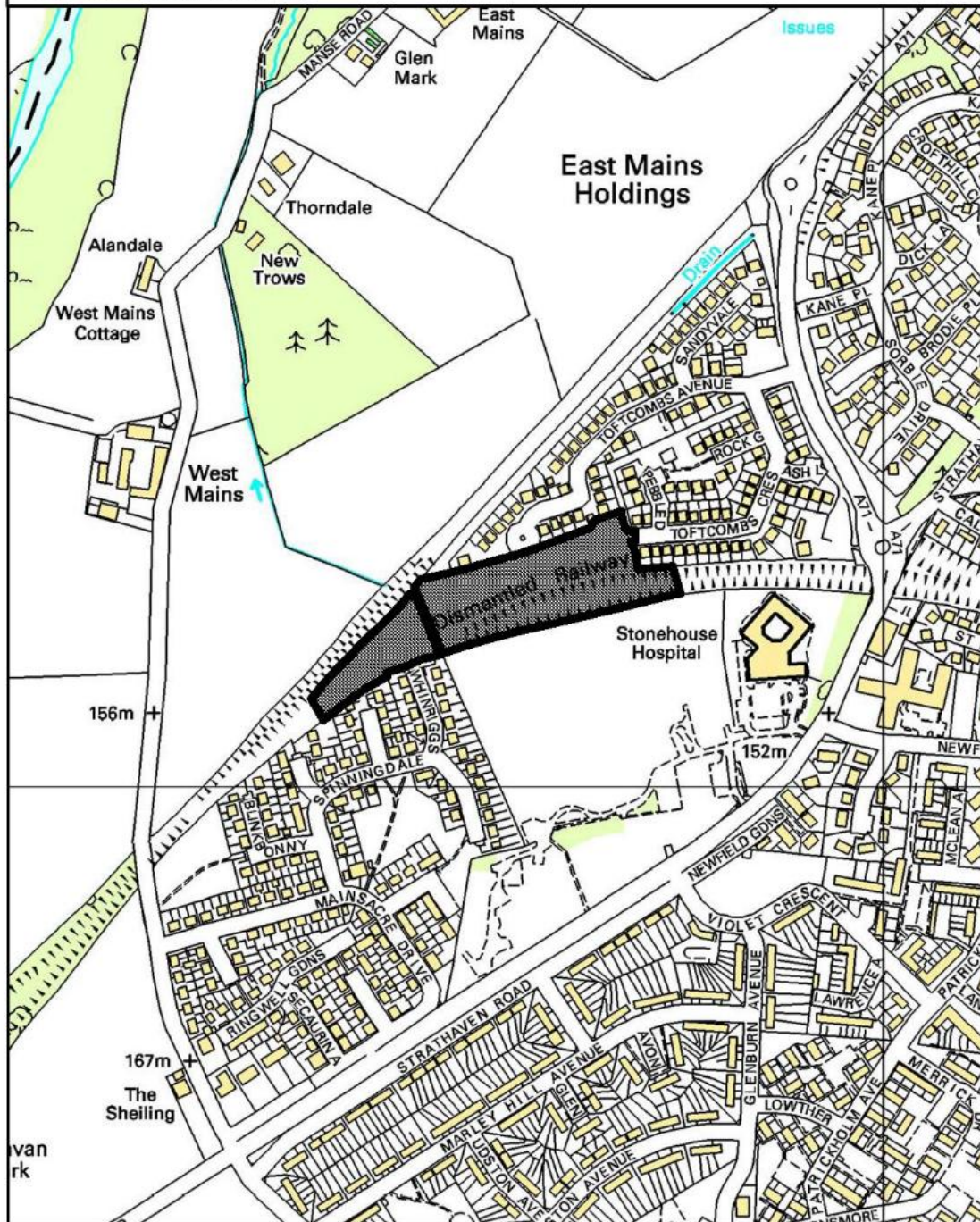
Refuse detailed planning permission

Reasons for Refusal

The proposal is contrary to the terms of Policy 4 (Development Management and Placemaking), Policy 5 (Community Infrastructure Assessment) of the South Lanarkshire Local Plan (adopted 2015), Policy 5 (Development Management and Placemaking), Policy 7 (Community Infrastructure Assessment) of the proposed South Lanarkshire Local Development Plan (2018), Supplementary Planning Guidance - Residential Design Guide (2011), Supplementary Guidance 3 - Development Management Place Making and Design, Supplementary Guidance 4 – Community Infrastructure Assessment, as the appropriate contribution towards affordable housing, education provision and the improvement/upgrading of community facilities has not been agreed and formalised through the completion of a Planning Obligation.

HM/10/0414

Toftcombs Crescent, Stonehouse



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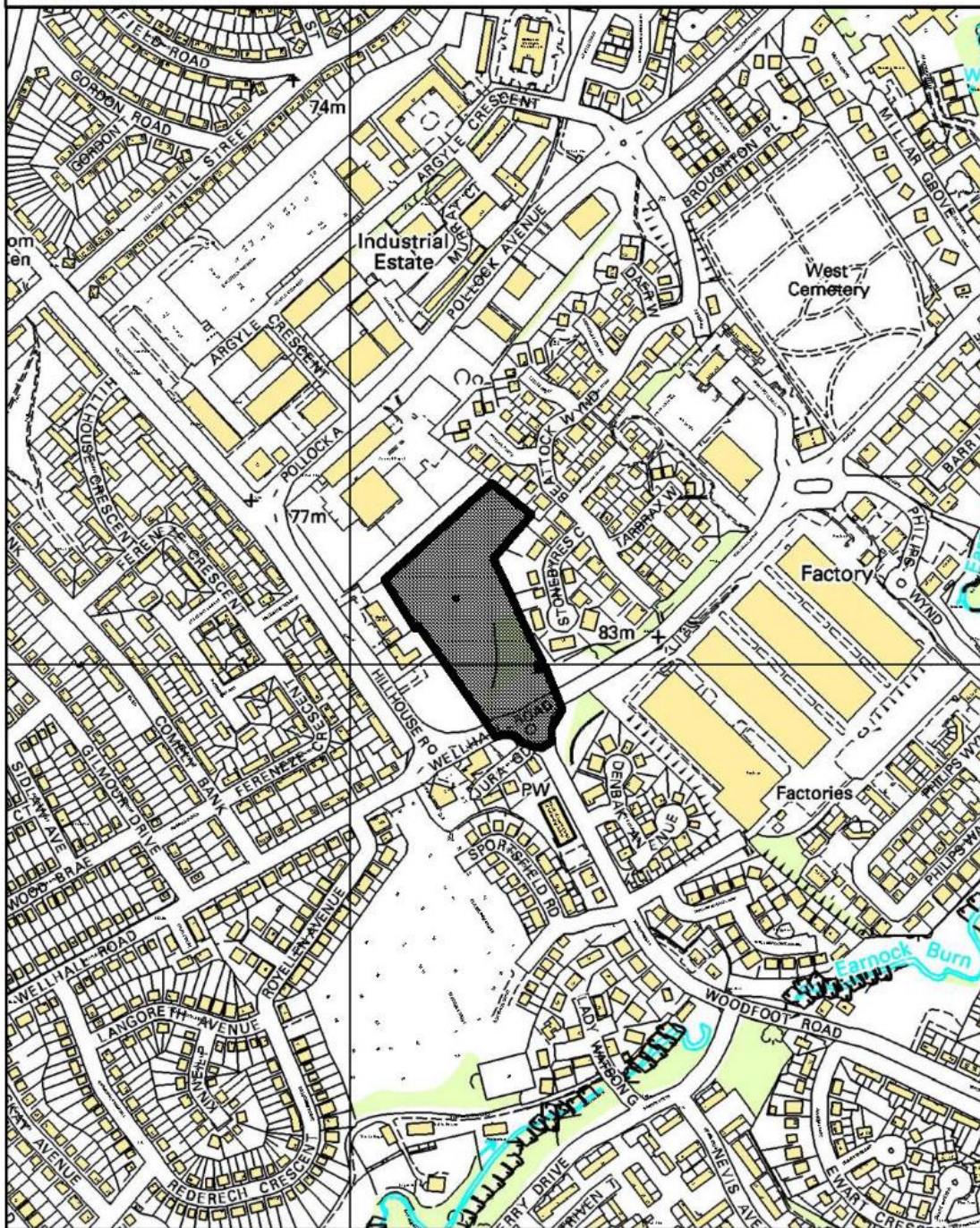


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South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development

Wellhall Road, Hamilton

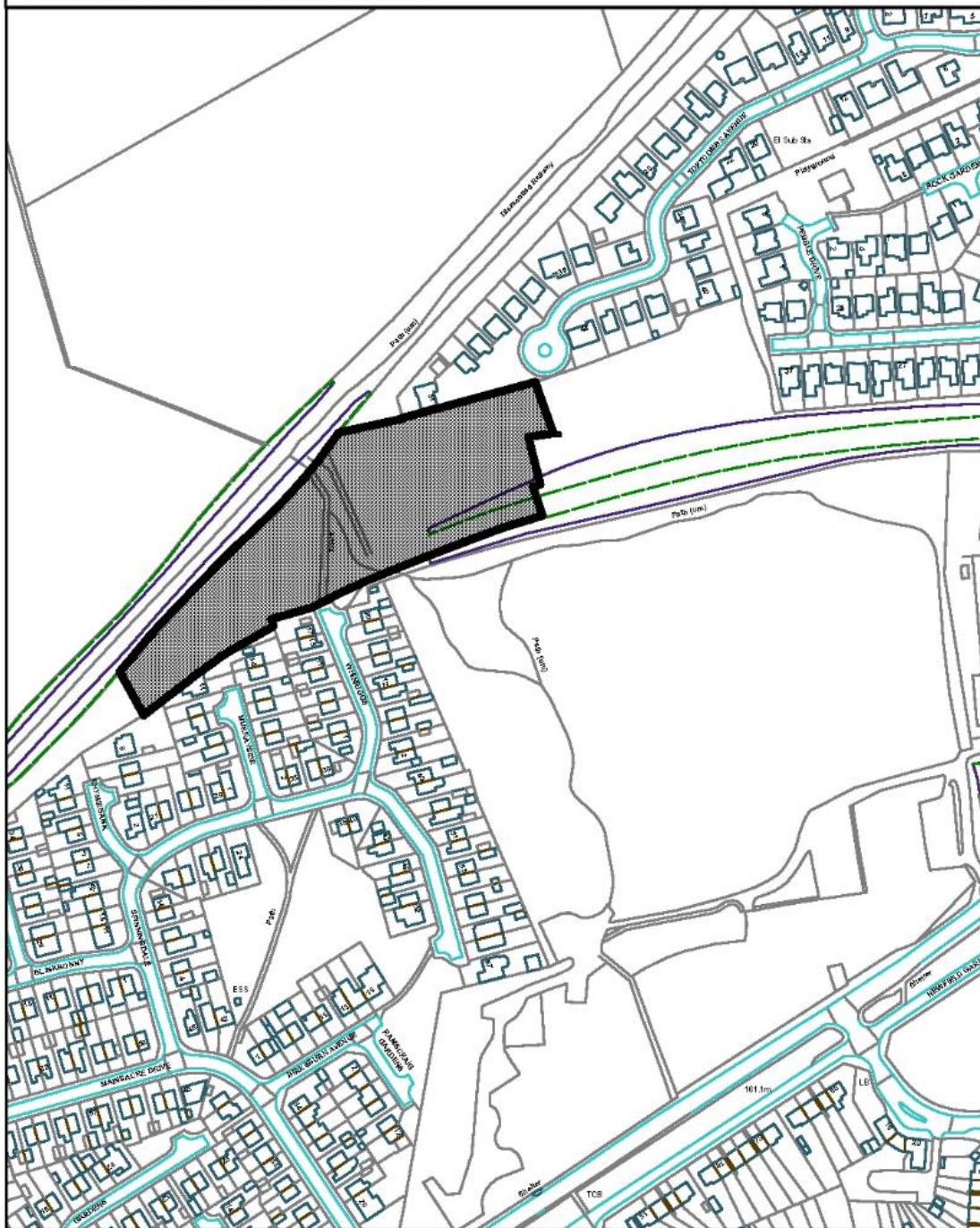


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HM/15/0470

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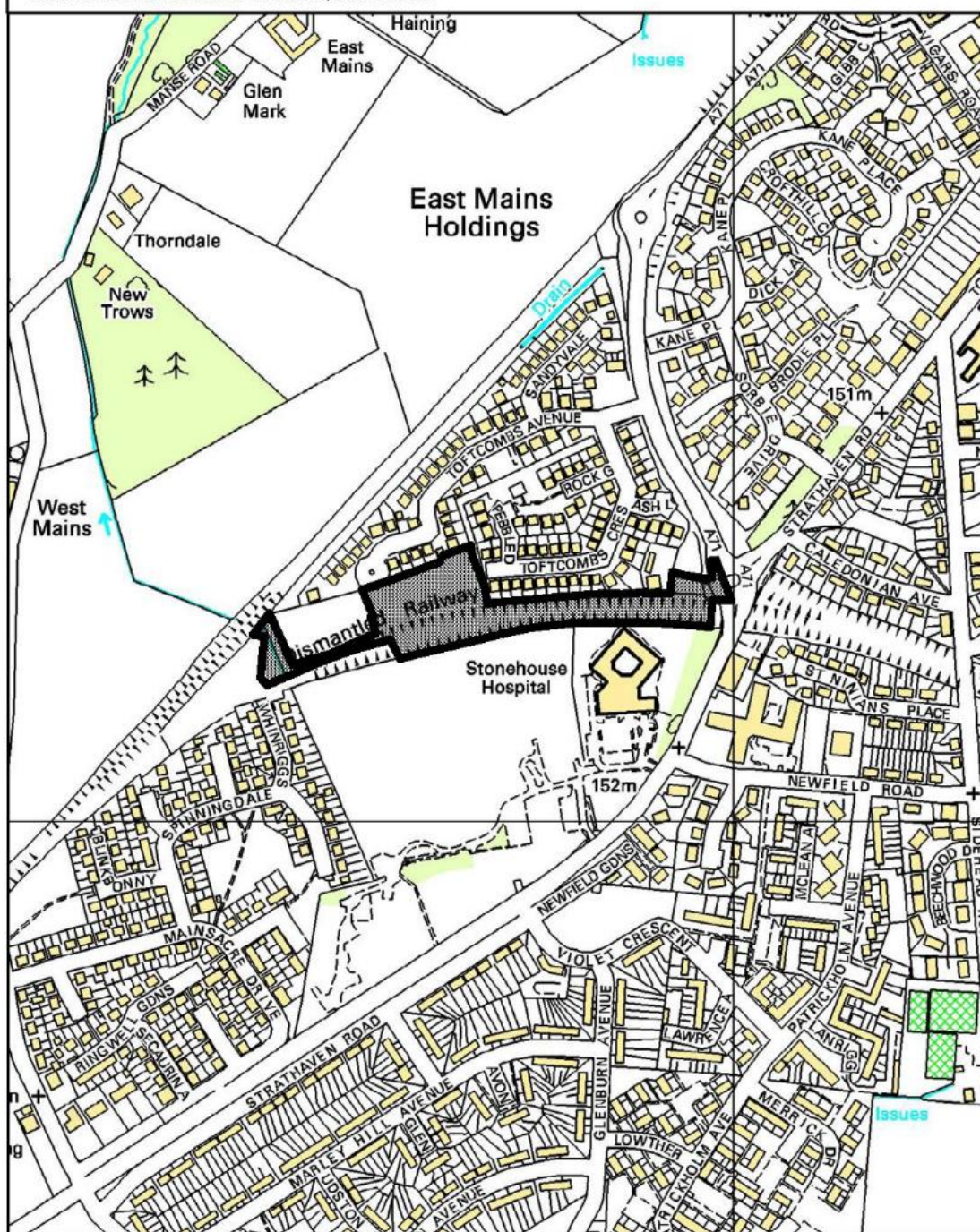
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