

Report

Report to:	Planning Committee
Date of Meeting:	21 March 2023
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 they 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 recommendations and associated reasons.

3. Background

- 3.1 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 Obligations on the applicant and/or landowner. In these cases, the issue of consent is withheld until a 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 The Scottish Government expects local developments and major developments to be determined within 2 months and 4 months respectively. Planning application reports to committee that require a Planning Obligation to be concluded before a decision is issued state that, should there be no significant progress towards the conclusion of the Planning Obligation within 6 months of the date of the Committee, the proposed development may be refused on the basis that, without the planning control/developer contribution which would be secured by the Planning Obligation, the proposed development would be unacceptable.

- 3.4 This is to 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.
- 4. Current Applications with Outstanding Legal Agreements**
- 4.1 Recently, the Planning Service has carried out a review of legacy planning applications (i.e. those planning applications that are over a year old) where the application has been granted by Committee subject to the Planning Obligation but the Planning Obligations 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.
- 4.2 From this review there are currently 3 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 despite 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. The relevant applications are detailed in Appendix 1 which is attached to this report.
- 4.3 Under Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the South Lanarkshire Local Development Plan 2 (SLLDP), adopted 9 April 2021 and National Planning Framework 4 (NPF4) which was laid before the Scottish Parliament on 8 November 2022 and adopted by Scottish Ministers on 13 February 2023. In this instance both Policy 18 in NPF4 and Policy 7 in SLLDP2 supporting the requirement for planning obligations where the impact of development proposals on infrastructure are required to be mitigated. The policy approach is therefore consistent.
- 4.4 In order to determine each of the relevant applications, Committee is requested to approve the recommendations contained in Appendix 1.
- 4.5 It is noted that NPF4 has not introduced any policy implications that, in relation to these three applications, would be in conflict with the original recommendations made to Committee and as such no additional reasons for refusal other than those relating to the Planning Obligation are recommended.
- 5. Employee Implications**
- 5.1 There are no employee implications. Any work undertaken can be met from existing resources.
- 6. Financial Implications**
- 6.1 None.
- 7. Climate Change, Sustainability and Environmental Implications**
- 7.1 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.
- 8. Other Implications**
- 8.1 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.

9. Equality Impact Assessment and Consultation Arrangements

- 9.1 The content of this report is not relevant to the Council's equalities duties and, therefore, no impact assessment is required.
- 9.2 Consultation has been carried out with applicants and agents as outlined at paragraph

David Booth

Executive Director (Community and Enterprise Resources)

9 March 2023

Link(s) to Council Values/Priorities/Outcomes

- ◆ Accountable, effective, efficient and transparent
- ◆ Ambitious, self-aware and improving

Previous References

- ◆ Planning Committee report on application P/20/1847 – 10 August 2021
- ◆ Planning Committee report on application P/21/0739 – 29 March 2022
- ◆ Planning Committee report on application HM/15/0487 – 26 April 201

List of Background Papers

- ◆ None

Contact for Further Information

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

James Wright, Team Leader, Floor 6, Council Offices, Almada Street, Hamilton, ML3 0AA

Phone: 07551 839 698

Email: james.wright@southlanarkshire.gov.uk

Appendix 1

Application No:	P/20/1847
Proposal:	Erection of residential (over 55's community) dwellings, 60 bedroom care home, associated onsite commercial centre and leisure facilities, and associated roads, access, landscaping, open space, parking and supporting infrastructure (Planning Permission in Principle)
Site Address:	Kersewell Mains Farm, Kersewell
Applicant:	Lannraig Wellbeing Resort Ltd
Date of Committee Approval:	10 August 2021

Background

Application presented to Committee in August 2021. Resolved to issue consent subject to a Planning Obligation in respect of the following matters being concluded between the applicant and the Council:

- ◆ A phasing plan to ensure that the residential dwellings are built in tandem with the associated leisure resort
- ◆ A restriction on the occupancy of the development by way of ensuring that the dwellings are restricted to at least one occupant of 55 years or more
- ◆ A commuted sum in lieu of onsite affordable housing provision for use within the Clydesdale Housing Area
- ◆ The provision of at least 1.5 hectares of canopy cover through compensatory tree planting
- ◆ The provision of a shuttle bus
- ◆ The provision of a cycle/foot path running along the northern boundary of the site

Apart from the applicant's lawyer establishing initial contact between the Council's Legal Services and Planning, no progress has been made in respect of any of the Planning Obligations requirements. The applicant's agent has been informed that the application is being reported for refusal due to lack of progress and apart from acknowledging this information, no further contact has been received.

Recommendation

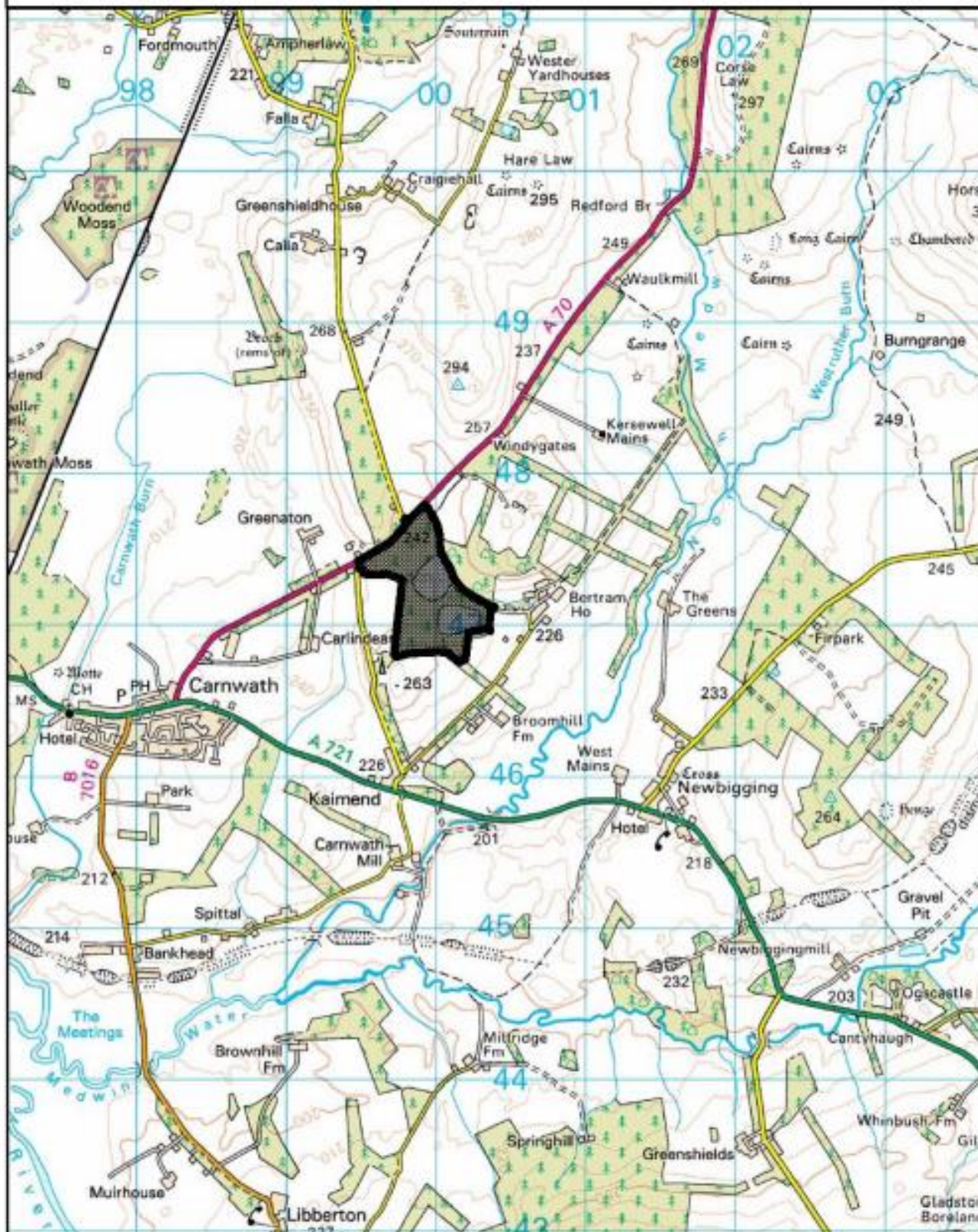
Refuse planning permission in principle.

Reasons for Refusal

The proposal is contrary to the terms of Policies 1, 4, 5, 7, 12, 15, GBRA2, DM21 and NHE13 of the South Lanarkshire Local Development Plan 2 and Supporting Planning Guidance – 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.

P/20/1847

Kersewell Mains Farm



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Scale:
1:35,000
Date:
17/05/2021



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development

Application No: P/21/0739

Proposal: Erection of dwellinghouses, formation of vehicular access, parking and landscaping (Planning Permission in Principle)

Site Address: Land Adjacent to 129 Main Street, Blantyre

Applicant: Mr Iain McKillop

Date of Committee Approval: 29 March 2022

Background

The application was presented to the Planning Committee in March 2022. The Planning Committee supported the issue of consent, subject to a planning obligation to ensure payment of a financial contribution towards community facilities.

There has been minimal progress made in concluding the planning obligation as the agent has advised that there is a land ownership issue relating to the site.

Recommendation

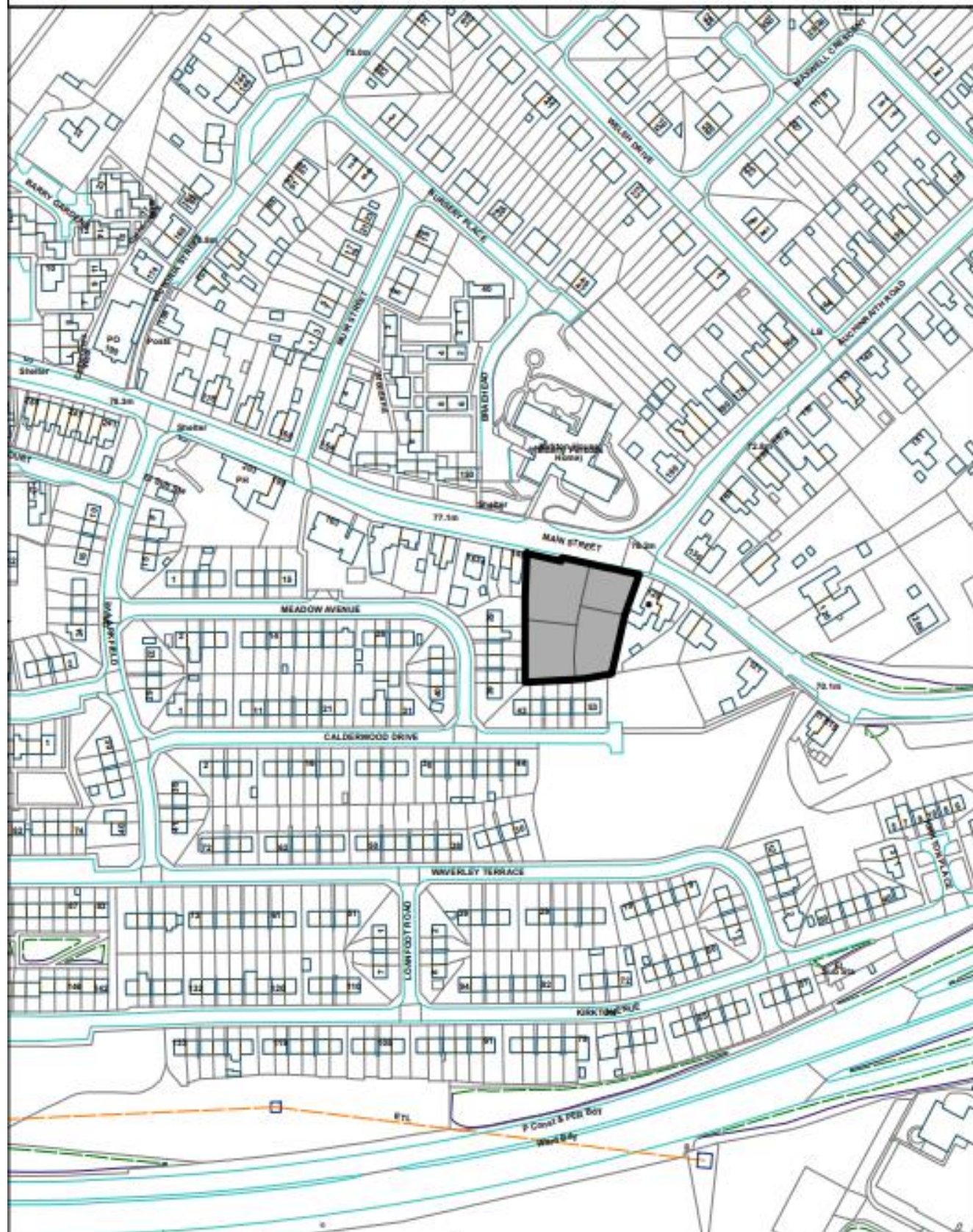
Refuse detailed planning permission.

Reasons for Refusal

The proposal is contrary to the terms of Policy 7 (Community Infrastructure Assessment) of the adopted South Lanarkshire Local Development Plan 2 and Supporting Planning Guidance – Community Infrastructure Assessment as the appropriate contribution towards the improvement/upgrading of community facilities has not been agreed and formalised through the completion of a Planning Obligation.

P/21/0739

Land adjacent to 129 Main Street, Blantyre



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Scale:
1:2,500
Date:
24/02/2023



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development

Application No:	HM/15/0487
Proposal:	Residential Development (Planning Permission in Principle)
Site Address:	Land at Strathaven Road West Mains Stonehouse ML9 3PA
Applicant:	Premier Bliss
Date of Committee Approval:	26 April 2016

Background

The application was presented to Committee in April 2016. Resolved to issue consent subject to a planning obligation to ensure payment of a financial contribution towards community facilities and in lieu of on-site play facilities, affordable housing and educational facilities.

Whilst initial progress was made concerning the planning obligation there has been little progress since 2018. The same site has subsequently gained planning permission, subject to a planning obligation, at Planning Committee on 13 September 2022 under reference P/22/0851. During the period there has been no progress on the Planning Obligation in relation to the 2016 application.

Recommendation

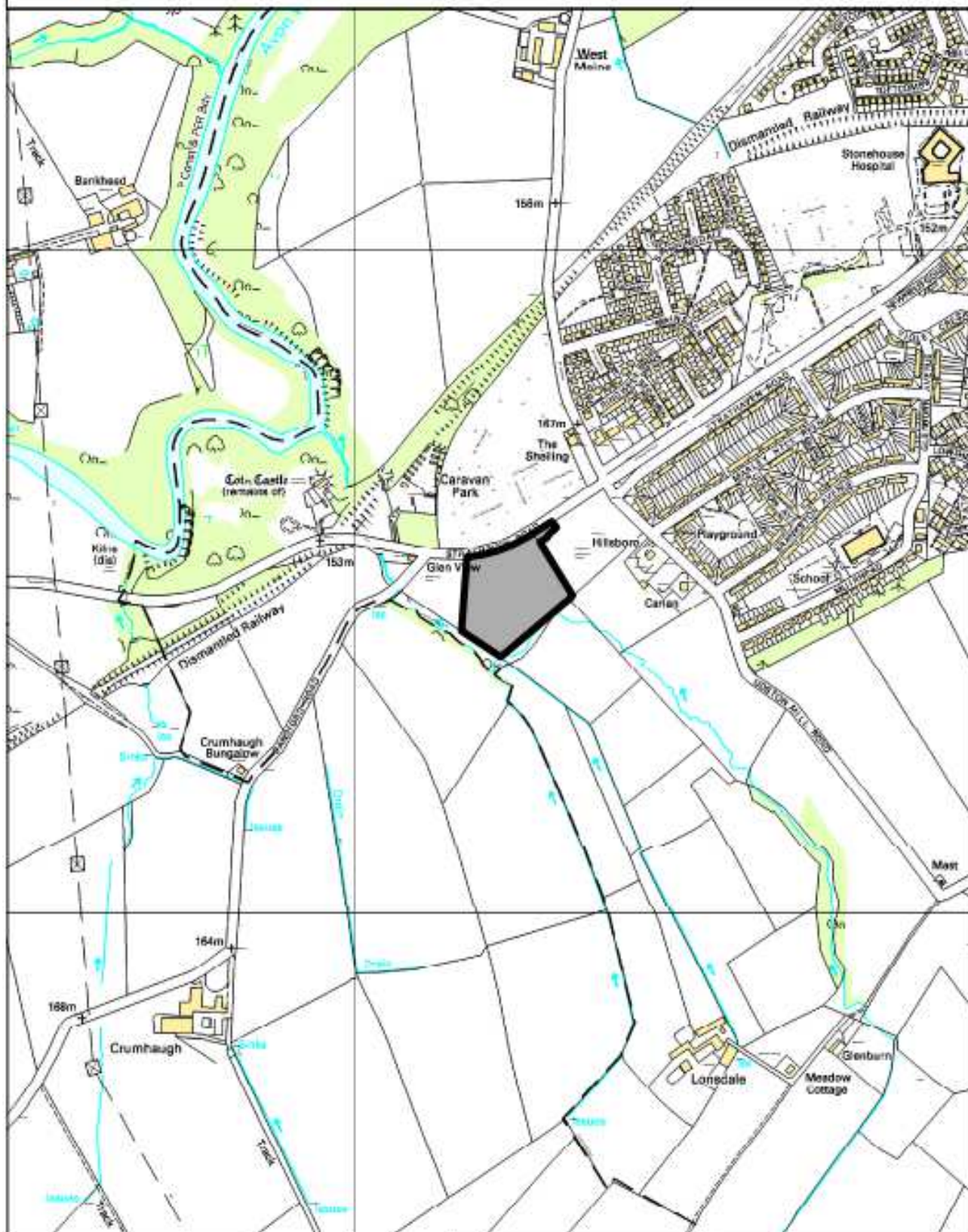
Refuse detailed planning permission

Reasons for Refusal

The proposal is contrary to the terms of Policy 5 (Development Management and Placemaking), Policy 7 (Community Infrastructure Assessment) and Policy 12 (Affordable Housing) of the South Lanarkshire Local Development Plan 2 and Supporting Planning Guidance – Community Infrastructure Assessment as the appropriate contribution towards affordable housing, educational facilities and towards community facilities has not been agreed and formalised through the completion of a Planning Obligation.

HM/15/0487

Land at Strathaven Road, West Mains, Stonehouse



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Scale:
1:8,000
Date:
24/02/2023



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development