

Report to:	Planning Committee
Date of Meeting:	1 November 2011
Report by:	Executive Director (Enterprise Resources)

Application No	CR/11/0106
Planning Proposal:	Removal of Condition Number 3 of Planning Permission CR/01/0207

1 Summary Application Information

- Application Type : Modification of Condition
- Applicant : Stonelaw Towers Residents – Marion Mehigan
- Location : Rear of small block at Stonelaw Towers
Glasgow
G73 3RL

2 Recommendation(s)

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

- (1) Grant 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: N/A
- ◆ Council Area/Ward: 11 Rutherglen South
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (adopted 2009)**
RES 6 - Residential Land Use Policy
DM 1 - Development Management Policy

- ◆ Representation(s):
 - ▶ 9 Objection Letters
 - ▶ 11 Support Letters
 - ▶ 0 Comments Letters

- ◆ Consultation(s):

Roads and Transportation Services (Cambuslang/Rutherglen Area)

Police Liaison Officer

Community Resources

Planning Application Report

1 Application Site

- 1.1 The application site lies immediately to the east of Stonelaw Road, within Burnside and relates to the Stonelaw Towers flatted development and associated open space, parking and garages. The gate position is on the north-east corner, located between some lock ups and a 2.5m high boundary wall.

2 Proposal(s)

- 2.1 The applicant is seeking revocation of condition 3 of planning permission CR/01/0207. Condition 3 is worded as follows: That the gate associated with the bin store area hereby approved shall not be locked or secured in the closed position at any time. In support of the current proposal, the applicant has stated that they want to close the gate to prevent ongoing anti-social behaviour.

3 Background

3.1 Local Plan Status

The site lies within a residential land use area, where Policy RES6 of the Local Plan applies. As the proposal relates to a residential related development there is considered to be no conflict with this policy. Policy DM1 sets out general criteria to be complied with/considered in relation to all planning applications. This policy states that development will require to have no significant adverse impact on the local environment and to enhance its quality and appearance.

3.2 Planning History

Planning application CR/01/0207 was granted on 20 November 2001 for the formation of a bin storage area to the rear of flatted housing. The bin storage area has not been implemented, however the fence and gate have been completed.

4 Consultation(s)

- 4.1 Roads and Transportation Services (East Kilbride) – have no objections to the proposal

Response: Noted.

- 4.2 Police Liaison Officer – has no objections to the permanent closure of the gate. This may prevent anti-social behaviour occurring at the rear of the flats. It has also been confirmed that four incidents of anti-social behaviour have been reported to the police for Stonelaw Towers since 01/01/2010. These incidents all relate to youths and include mention of school pupils using the lane as a shortcut at lunchtime and damage to parked vehicles, as well as general annoyance.

Response: Noted. The reports of anti-social behaviour appear to verify some of the comments received by local residents.

- 4.3 Countryside and Greenspace (Access Officer) - Has confirmed that the route is identified on the Finalised Draft South Lanarkshire Core Paths Plan as a component of the wider access network and based on the anecdotal evidence of local residents in the area may meet the criteria necessary for consideration as a right of way. However it is not identified as such on the register of rights of way.

Response: It is noted that evidence has been provided to the Council that the route has been used by some residents for many years. The Council's Access Officer has a duty to protect pedestrian routes where there is evidence of use and where

appropriate. However, in relation to this application, the Planning Service is required to balance a limited number of the benefits of retaining this route against the potential loss of amenity that can result from anti-social behaviour. In this case, it is considered that potential disruption to residents of Stonelaw Towers outweighs the potential inconvenience to residents who wish to see the route remain open at all times.

5 Representation(s)

5.1 Following statutory neighbour notification, a total of 20 representations have been received – 11 letters of support and 9 letters of objections. The points raised are summarised as follows:

Support letters

a) **Due to the use of the lane as a short-cut and a gathering point for school children and other people, anti-social behaviour has been experienced by local residents as follows: littering; people urinating; abusive language; noise disturbance; dog fouling; vandalism, (including graffiti broken window, eggs thrown at window, spitting on property, damage to cars, theft). In addition, in the evening alcohol has been consumed in the area, with associated intimidating behaviour.**

Response: It is noted that several local residents have experienced significant anti-social behaviour problems in the area to the rear of their residential properties. Although these are matters that require to be dealt with by the police, the problems experienced are considered to be a material consideration in determining this planning application.

b) **As a result of the gate being recently closed, the anti-social incidents have stopped and now residents feel more secure.**

Response: Noted.

c) **A number of properties in Stonelaw Towers have suffered an attempted break in and one property has been burgled. Locking the gate would enhance security in this area.**

Response: Strathclyde Police have confirmed that a number of incidents have been reported to the police in relation to the lane and the area to the rear of Stonelaw Towers. It is considered that locking the gate will reduce the likelihood of anti-social behaviour and criminal activity as accessibility to this area would be reduced.

d) **About 18 years ago the residents of Greystone Avenue had bollards erected adjacent to our private road (on their side) so that residents from Stonelaw Towers could not use this route. This caused issues gaining access to Stonelaw Towers as the petrol station entrance was always busy.**

Response: This matter is not deemed to be directly relevant to the assessment of this application.

e) **Attempts have been made to resolve the access issues raised by residents of Greystone Avenue by offering an arrangement to have the gate locked at certain times and keys given to Greystone Avenue residents to enable them to open the gate when required. No agreement has been reached on this matter.**

Response: It is noted that an attempt by local residents to reach a compromise in terms of locking the gate at certain times with alternative access arrangements has been unsuccessful.

Objection letters

- f) **Residents question - How can anti-social behaviour issues be controlled by the gate to be locked when the entry to Stonelaw Towers via the Shell garage remains open? On the Greystone Avenue side we have minimal vandalism and anti-social behaviour.**

Response: It is acknowledged that locking the gate may not completely remove the possibility of any anti-social behaviour taking place to the rear of Stonelaw Towers, however, there is likely to be less reason for non-residents to use this area as there will be no through route. This, in turn is likely to result in less potential for anti-social behaviour or criminal activity.

- g) **The Council's access officer advised on 26th April 2011 that the route is part of the wider network in the South Lanarkshire Council Core Paths Plan. The freedom of access via the gateway is protected by the planning condition. It is our intention to protect these routes, as we would others, under the current legislation – the Land Reform (Scotland) Act 2003.**

Response: The route in question (Springfield Park Road to Stonelaw Road) is shown in the Core Paths Plan (Final Consultative Draft) as part of the wider network. In this situation, the route is not put forward as a candidate for core path status but is shown as a route in popular use by the public. The evidence provided to the Council's access officer shows that 5 residents of Greystone Avenue have claimed use of the route for at least 20 years.

- h) **The residents of Greystone Avenue agree that the lane follows a defined route, which joins two public places and is close to amenities such as bus stops, 24hr Shell garage, local shops and a train station. It has been used openly and peaceably for a continuous period of 20 years (and in some cases up to 50 years) by both pedestrians and cyclists. It is and has been, until recently, an easy route for neighbours to meet and interact. By permanently locking the gate, many of the residents, aged 80 plus, with walking and/or sight difficulties will be forced to go the long way. This is difficult all year but dangerous in the winter.**

Response: The assessment of this planning application cannot determine whether the route has right of way status as this is a legal matter, based on evidence. In terms of the planning condition, it is acknowledged that if the condition is revoked, some residents may be disrupted in terms of seeking an alternative route. However, in this instance, it is considered that the alternative route (Greystone Avenue to Stonelaw Road on the footway next to the road) is safe and will not result in any significant inconvenience. The estimated difference in the length of the two routes is 30 metres. This is based on starting from the corner of Springfield Park Road and Greystone Avenue and walking to the vehicle entrance to Stonelaw Towers on Stonelaw Road. The overall distance walking along Greystone Avenue is approximately 190 metres and the distance using the gate is approximately 160 metres. It should be noted that this alternative route is via the adopted, well lit and maintained public footpath.

- i) **At present a resident from Stonelaw Towers is intermittently locking the gate or obstructing an unopened gate in order to prevent Greystone residents from a free and open route.**

Response: Currently and over the years, this has been pursued by the Planning Service. The locking of the gate is a breach of the planning condition, which can be enforced. It is acknowledged, however, that there is a difficulty in enforcing this condition due to the amount of monitoring that is required to do so effectively.

- j) **The permanent chaining of the fence is contrary to the local structure plan, it would drastically affect our access to local amenities, particularly for our elderly neighbours. It would also dilute community spirit as well as having a detrimental impact on the built environment.**
Response: In planning terms, the permanent chaining of the fence would not be contrary to either the Local Plan or Structure Plan. This issue is addressed further in section 6, below. As stated in paragraph 5.1 (h), above, the alternative route from Springfield Park Road or Greystone Avenue to Stonelaw Road or vice versa does not constitute a significant deviation. It is acknowledged that it could be more convenient and marginally quicker when travelling from Stonelaw Road to use the through route to gain access to the rear of the properties on Greystone Avenue (Nos. 2 to 26). It is not considered, however that the alternative, i.e. to travel further north on Stonelaw Road and then turn east onto Greystone Avenue to reach the front of Nos. 2 to 26 will result in any significant inconvenience or major loss of amenity. Furthermore, the route along the main roads is likely to be safer as it is well lit, on a recognised footway and overlooked by housing.
- k) **Part 10 of the application form regarding access and parking has been answered no, when in fact, the proposal would affect public rights of access.**
Response: The route in question is not defined as a public right of way. The ticking of no in this instance is not considered sufficient to invalidate the planning application.
- l) **The applicant has stated that Stonelaw Towers own this land. I would dispute this is the case.**
Response: The applicant has completed the planning application form correctly and confirmed ownership.

5.2 These letters have been copied and are available for inspection in the usual manner and on the Planning Portal.

6 Assessment and Conclusions

- 6.1 The determining issues in consideration of this application are its compliance with development plan policy and any other material considerations.
- 6.2 In relation to the Local Plan, Policy DM1 sets criteria to be complied with in respect of all planning applications. Of particular relevance to this proposal are criteria (e) – ensure accessibility for all and (h) – provide suitable access, parking and have no adverse implications for public safety. In this case, it is considered that proposal is in accordance with Policy DM1.
- 6.3 In terms of the letters of representation received, it appears that there is a difference of opinion between some residents of Stonelaw Towers and some residents of Greystone Avenue in relation to the use of the lane between these areas. However, it is not the role of the Planning Service to intervene in this dispute or to police the use of the lane and the gate at all times. The assessment is therefore based on planning issues, such as any potential loss of amenity that would result from closure of this gate. In this regard, as outlined in section 5 above, it is considered that the potential closure of the gate will not result in a significant loss of amenity for residents of Greystone Avenue as they will still be able to access local services without major inconvenience. Furthermore, it is not considered that the loss of this route will have a detrimental impact on public safety or discourage residents from walking. The apparent reduction in anti-social behaviour following the closure of the gate also

suggests this has contributed to reduced safety levels in the area and fear of crime for some residents of Stonelaw Towers.

- 6.4 It is acknowledged that when the original application (CR/01/0207) for the bin store was granted it was deemed appropriate that the gate was to remain unlocked at all times to ensure the through route was maintained. However, following approval of the application in 2001 it has proved difficult to enforce this condition. Whilst this is not a reason in itself to approve this application, it is considered that in this case a planning condition was not the appropriate method to control access. Furthermore, evidence is now available which suggests that the access route has been a contributory factor to anti-social behaviour in this area. Taking into account the relative convenience of the conventional route along Greystone Avenue, it is considered that, on balance, the proposal to revoke the condition is acceptable.
- 6.5 In summary, it is considered that condition no.3 of planning permission CR/01/0207 can be revoked as the proposal will not have an adverse impact on amenity, public accessibility or public safety and is therefore in accordance with the relevant policies of the Local Plan. It is therefore recommended that planning permission be granted.

7 Reasons for Decision

- 7.1 The proposal has no adverse impact on residential amenity, accessibility or public safety and complies with Policies RES 6, and DM 1 of the adopted South Lanarkshire Local Plan (2009).

Colin McDowall
Executive Director (Enterprise Resources)

18 October 2011

Previous References

- ◆ CR/01/0207

List of Background Papers

- ▶ Application Form
- ▶ Application Plans

- ▶ Consultations

Roads and Transportation Services (East Kilbride Area)	03/08/2011
Countryside and Greenspace Service	07/09/2011
Police Liaison Officer	19/09/2011

- ▶ Representations

Representation from : Ms Shelagh Jackson, 20 Greystone Avenue, Rutherglen, Glasgow, G73 3SJ, DATED 09/06/2011

Representation from : Mrs Dianne Graham, 18 Greystone Avenue, Rutherglen, Glasgow, G73 3SJ, DATED 13/06/2011

Representation from : Robert Smith, 16 Greystone Avenue, Rutherglen, Glasgow, G73 3SJ, DATED 07/06/2011

Representation from : Mr & Mrs W Corbett, 10 Greystone Avenue, Rutherglen, G73 3SJ, DATED 09/06/2011

Representation from : Mr & Mrs Frank Lang, 14 Greystone Avenue, Rutherglen, G73 3SJ, DATED 09/06/2011

Representation from : Mr & Mrs E Marshall, 24 Greystone Avenue, Rutherglen, G73 3SJ, DATED 09/06/2011

Representation from : Ms Janette Miller, 26 Greystone Avenue, Rutherglen, G73 3SJ, DATED 09/06/2011

Representation from : Mr George Brown, 8 Greystone Avenue, Rutherglen, G73 3SJ, DATED 09/06/2011

Representation from : Catherine Brennan, 6 Greystone Avenue, Rutherglen, G73 3SJ, DATED 16/06/2011

Representation from : Ann McKearney, 10 Stonelaw Towers, Burnside, Rutherglen, G73 3RL, DATED 23/06/2011

Representation from : Mr Andrew MacFarlane, 16 Stonelaw Towers, Burnside, Rutherglen, G73 3RL, DATED 23/06/2011

Representation from : Mr M McKearney, 10 Stonelaw Towers, Burnside, Glasgow, G73 3RL, DATED 23/06/2011

Representation from : James Hamilton, 19 Stonelaw Towers, Rutherglen, DATED 23/06/2011

Representation from : Margaret Johnston, 21 Stonelaw Towers, Burnside, Rutherglen, G73 3RL, DATED 23/06/2011

Representation from : Karen Kane, 15 Stonelaw Tower, Burnside, Rutherglen, G73 3RL, DATED 23/06/2011

Representation from : Pamela McKenna, 14 Stonelaw Towers, Burnside, G73 3RL, DATED 23/06/2011

Representation from : Miss D Black, 17 Stonelaw Towers, Rutherglen, G73 3RL, DATED 23/06/2011

Representation from : Mr & Mrs J Allen, 3 Stonelaw Towers, Rutherglen, DATED 23/06/2011

Representation from : Irene Taylor, 18 Stonelaw Towers, Glasgow, G73 3RL,

DATED 23/06/2011

Representation from : Margaret Keilt, 12 Stonelaw Towers, Burnside, G73 3RL,
DATED 23/06/2011

Contact for Further Information

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

Alan Pepler, Planning Officer, Civic Centre, East Kilbride
Ext 6652, (Tel :01355 806652)
E-mail: planning@southlanarkshire.gov.uk

Detailed Planning Application

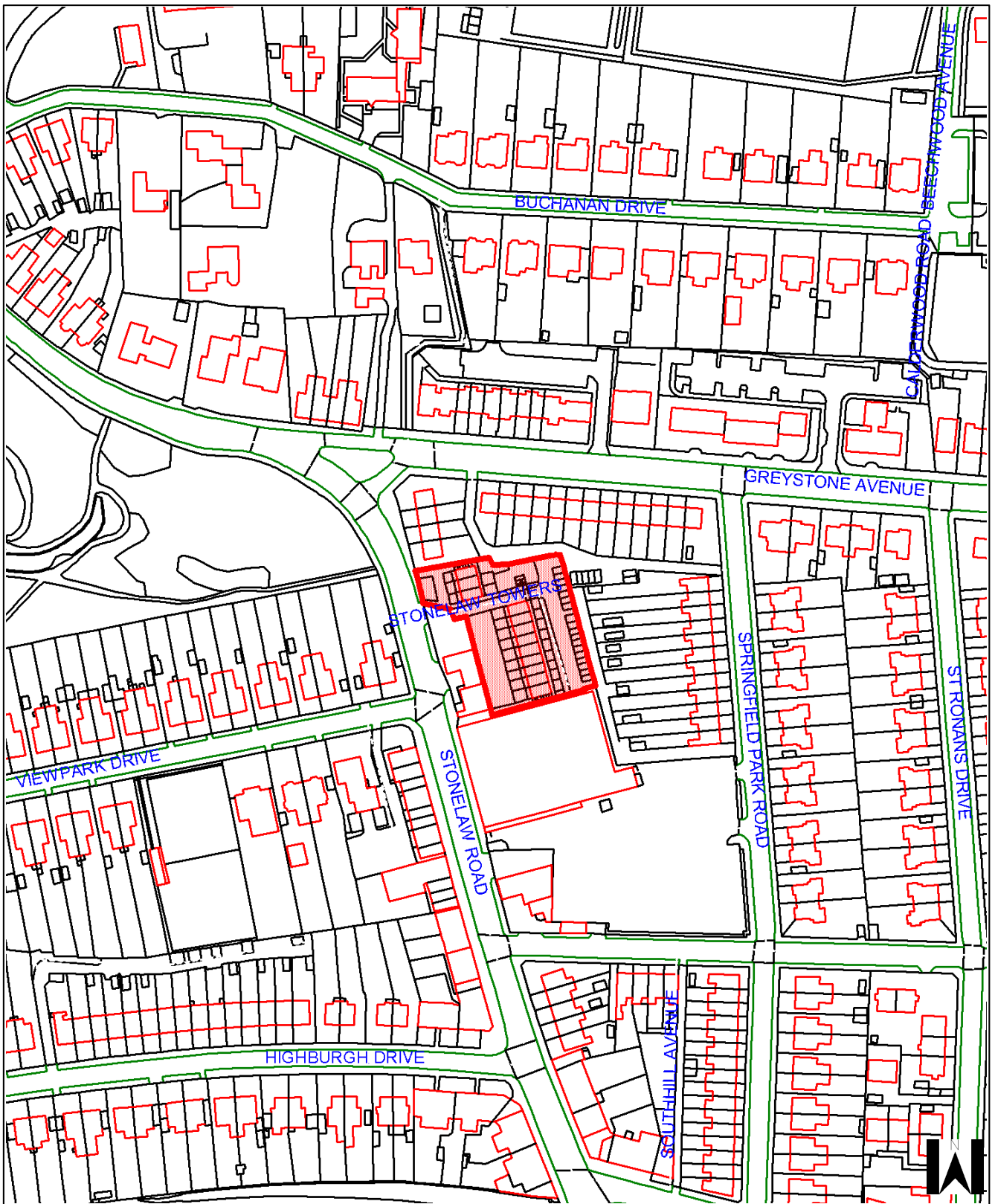
PAPER APART – APPLICATION NUMBER : CR/11/0106

CONDITIONS

- 1 The consent shall be carried out strictly in accordance with drawing numbers:
Location Plan
Block Plan

REASONS

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.



For information only

For information only