

Appendix 5

Notice of Review (including Statement of Reasons for Requiring the Review) submitted by applicant Mrs McRae



Notice of Review

Under Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on local developments
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
The Town and Country Planning (Appeals) (Scotland) Regulations 2008

This notice requires to be served on the Planning Authority within 3 months of the date of the decision notice or from the date of expiry of the period allowed for determining the application which is set as 2 months following the validation date of the application

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your Notice of Review.

Please complete in BLOCK CAPITALS

| Applicant(s) | Agent (if any) |
|---|---|
| Name: MRS ALISON J. McRAE | Name: NEIL GAINFORD MRTPI |
| Address: JERVISWOOD HOUSE LANARK | Address: 8 WOODLANDS DRIVE LANARK LANARKSHIRE |
| Postcode: ML11 7RH | Postcode: ML11 9FS |
| Contact Telephone 1: <input type="text"/> | Contact Telephone 1: <input type="text"/> |
| Contact Telephone 2: <input type="text"/> | Contact Telephone 2: <input type="text"/> |
| Fax No: <input type="text"/> | Fax No: <input type="text"/> |
| E-mail*: <input type="text"/> | E-mail*: <input type="text"/> |

Mark this box to confirm that all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Application reference number: C L / 1 0 / 0 1 7 5

Site address: LAND AT SILVERMUIR ROAD, RAVENSTRUTHER, ML11 7SF

Description of proposed development: ERECTION OF DWELLINGHOUSE (PLANNING PERMISSION IN PRINCIPLE)

Validation date of application: 19/03/2010 Date of decision (if any): 28/05/2010

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for requesting review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

In cases where the Planning Local Review Body considers that it has sufficient information, including the Notice of Review, the decision notice, report of handling and any further representations from interested parties, it may, under Regulation 12, proceed to determine the review. It is anticipated that the majority of cases the Planning Local Review Body deals with will fall into this category.

The Planning Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable it to determine the review. Further information may be required by one or a combination of procedures, such as written submissions, the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you consider most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|--------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If there are reasons why you think the Planning Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement of reasons for requiring the review

You must state, in full, why you are requesting a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. **Note:** you may not have a further opportunity to add to your statement of review at a later date. It is, therefore, essential that you submit with your Notice of Review all necessary information and evidence that you rely on and wish the Planning Local Review Body to consider as part of the review.

If the Planning Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your Notice of Review and all matters you wish to raise. If necessary, this statement can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED STATEMENT OF REASONS

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? **Yes** **No**

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

The Planning Act requires that decisions on planning applications should be made having regard to the development plan and to all other material considerations. The Delegated Report, on which the decision to refuse Application CL/10/0175 is based, only refers to planning policy as contained in the adopted South Lanarkshire Local Plan, and does not contain any reference to or assessment of any other material consideration. It is submitted that this decision is therefore unsound.

The Report of Handling ought to have taken into account material considerations including relevant statements of government planning policy, site conditions, conceivable alternative futures for the site, and in particular recent planning decisions taken by South Lanarkshire Council, and the reasons for these decisions affecting adjoining land.

It is respectfully submitted that this 'new material' only refers to material considerations of which the Council were aware and which ought to have been contained in the officer's Report of Handling.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your Notice of Review and intend to rely on in support of your review.

PRODUCTION 1: Planning Committee Report on Application CL/08/0207
 PRODUCTION 2: Extract from Circular 6/1990
 PRODUCTION 3: Extract from Scottish Planning Policy
 PRODUCTION 4: Letter Dated 24 March 2010 regarding visibility splays
 PRODUCTION 5: Letter dated 7 June 2010 from Mrs Mary McLellan
 PRODUCTION 6: Delegated Report on Application CL/10/0175

Note: A copy of the Notice of Review, the review documents and any notice of the procedure of the review will be made available for inspection by prior appointment (Phone: 08457 406080) at the office of Planning and Building Standards Services, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB until such time as the review is determined. It may also be made available on the Council's website.

Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- 2 copies** of all documents, materials and evidence which you intend to rely on (eg planning application form, plans and drawings, decision notice or other documents) which are now the subject of this review.

Note. Where the review relates to a further application, eg renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed:



Date:

26 AUGUST 2010

This form and 2 copies of all supporting documents should be sent to:-

**Head of Planning and Building Standards Services
 Enterprise Resources, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB**

Email: enterprise.hq@southlanarkshire.gov.uk

Phone: 08457 406080

For official use

For more information or if you want this information in a different format or language, please phone 01698 455379 or send email to enterprise.hq@southlanarkshire.gov.uk

Date stamp)

Statement of Reasons for Notice of Review

Erection of Dwellinghouse (Planning permission in principle)

On Land at Silvermuir Road, Ravenstruther, Lanark, ML11 7SF

Mrs Alison J. McRae

Ref: CL/10/0175

1.0 INTRODUCTION

Site Description and Context

1.1 The application site extends generally to 0.6882 hectares (1.08 acres) in extent and is bounded to the north by Haghholm/Silvermuir Road which leads from Cleghorn to Ravenstruther. The ground comprises former railway land which has been referred to by the Council in references under an earlier application on adjoining land as being 'vacant'. (PRODUCTION 1: paragraph 1.1).

1.2 The Delegated Report for Application CL/10/0175 describes (paragraph 1.1) the review site as sitting "at a significantly higher ground level" than adjoining land. This is factually incorrect. The review site is higher than the public road, but this is only because the road has been excavated in a cutting in order to allow sufficient clearance at the railway bridges at either side of the review site. It would be more accurate therefore to state that the public road sits at a much lower level than the ground on either side. The fact that the Review Site would not be visible from the public road ought to have been regarded positively in so far as any development on this site could not be seen from the public road.

2.0 REASONS FOR REVIEW OF THE OFFICER'S DECISION

Officer's Decision is Unreasonable and Unsound

2.1 The Planning Act requires that decisions on planning applications should be made having regard to the development plan and to all other material considerations. The Delegated Report, on which the decision to refuse Application CL/10/0175 is based, only refers to planning policy as contained in the adopted South Lanarkshire Local Plan. No reference is made in the Officer's Delegated Report to relevant statements of Government planning policy, or to other recent planning decisions both of which are material considerations, and ought to have been assessed in the officer's report.

2.2 Various key statements of planning policy have been issued by the Scottish Government recently, many of which are not reflected in the adopted Plan. It is submitted that these key statements of policy (summarised below) ought to have been referred to in the Delegated Report and taken into account in the officer's decision. The Delegated Report makes no reference to relevant statements of Government planning policy.

2.3 Circular 6/1990 states that refusing an application solely on the grounds that it does not accord with the development plan, and failing to take into account relevant statements of Government policy of which the planning authority were aware, constitutes '*unreasonable behaviour*' and could qualify for an award of costs against the Council (PRODUCTION 2: Extract from Circular 6/1990). It should be clarified that in this case the appellant is not seeking an award of costs. The reference to Circular 6/1990 primarily serves to confirm that the officer's failure to recognise relevant key statements of Government planning policy was unreasonable, and that a decision taken on this basis is vulnerable to challenge as being unsound.

2.4 The relevant planning policy issues which were not acknowledged in the Delegated Report are as follows:

-1-

**Material Policy Considerations not taken into Account in the Delegated Report
SCOTTISH PLANNING POLICY (PRODUCTION 3)**

2.5 The Scottish Planning Policy (SPP) document issued in February 2010 updates and consolidates most of the Scottish Government's planning policy statements over the last 35 years into one composite statement of national planning policy. In this respect the SPP is possibly the most significant planning policy document to be issued in the last 40 years and should be a material consideration on decisions on planning applications (SPP Para 2). Several aspects of SPP (2010) are relevant to Application CL/10/0175 but none is referred to in the Delegated Report.

2.6 Two themes relevant to this Review run throughout the SPP: (1) A Generous Supply of Land for Housing; and (2) The Need to Maximise the Re-use of Previously Developed Land.

2.7 The Scottish Government is committed to increasing the supply of new homes and the planning system has a key role in raising the rate of new housebuilding (SPP Para 66). Development plans should allocate land on a range of sites which is effective or capable of becoming effective to meet the housing land requirement up to year 10 from the predicted year of adoption.

2.8 The SPP clarifies (SPP Para 94) that the requirement for development plans to allocate a generous supply of land to meet housing requirements applies **equally** to rural and urban areas. This requirement was introduced after the adoption of the South Lanarkshire Local Plan and therefore it would be unreasonable to expect the adopted Plan to have anticipated this aspect of national policy. However it would be reasonable to expect that the Delegated Report would have recognised and acknowledged this change in Scottish Government policy.

2.9 The SPP also requires that planning authorities should take a pro-active approach to encourage the re-use of previously developed land. The rural development policies of the SPP (Paragraph 93) emphasise that developments which provide employment benefits should be encouraged, particularly where they involve the imaginative and sensitive use of previously used land. These aspects of national planning policy, which are material planning policy considerations, were not taken into account in the Officer's Delegated Report.

PLANNING APPLICATION CL/10/0175

2.10 South Lanarkshire Council's decision on 16 December 2008 to grant planning permission for a residential development of 13 houses on an adjoining site is a relevant material planning consideration, not just in respect of the requirement in Scottish Planning Policy for consistency of decision making, but particularly in respect of the reasoning behind the Council's decision to approve the application. These reasons are contained in the Delegated report for Application CL/08/0207 (PRODUCTION 1)

2.11 There are a number of similarities in the circumstances of the Review proposal and Application CL/08/0207. Both sites are situated outwith the settlement boundaries of Cleghorn and Ravenstruther. Similarly both sites qualified as being 'previously developed land'. It is ironical that the derelict character and incursion of urban uses (including railway development) of the present Review Site was one of the factors the Council used to justify approval of the 13 houses on the adjoining site (PRODUCTION 1: paragraphs 6.3 and 6.7). Similarly, both sites are self contained physically (PRODUCTION 1: paragraph 6.7)

2.12 Notwithstanding the similarities of the two sites there is a markedly unaccountable difference between the ways the two proposals have been considered. The Delegated Report for Application CL/08/0207 recognises the commitment in government policy towards proposals which make

effective use of previously developed land in rural areas (PRODUCTION 1: paragraph 3.2.1). The Delegated Report (PRODUCTION 6) for the Review proposal fails to acknowledge any aspect of government policy.

2.13 The speed check undertaken for Application CL/08/0207 showed that sightlines of 2.5metres by 35.0 metres were acceptable to serve a development of 13 houses. The Review site, on which only one house is proposed, offers significantly better visibility of 58.0 metres to the left, and 125.0 metres to the right measured from a point 2.50 metres from the edge of the public road (PRODUCTION 4). However, the proposal for one house with better visibility has been refused, and the larger proposal comprising 13 houses but with more restricted visibility was accepted. No explanation has been offered to account for this anomaly.

2.14 The primary reason for refusal of the Review proposal was that it was considered to be contrary to the Metropolitan Development Strategy and in particular to Strategic Policy 1 of the Glasgow and the Clyde Valley Structure Plan, in that the development would constitute ***“isolated and sporadic development in the wider countryside”***. In contrast, the adjoining site of Application CL/08/0207 was **not** regarded as being isolated (PRODUCTION 1: paragraph 6.3).

2.15 Paragraph 4.1 of the Delegated Report for the Review Proposal sums up the main issues to be considered in the determination of this proposal. The main issues are considered to be whether the application complies with development plan policy and secondly the extent of the proposal’s impact on the amenity of the rural area. It has been demonstrated in the case of Application CL/08/0207 that national government policy applied in similar circumstances was sufficient to outweigh development plan policy. No such consideration was applied to Application CL/10/0175. No explanation has been offered to account for this anomaly.

3.0 CONCLUSION

3.1 The sole reasons for the refusal of Planning Application CL/10/0175 relate to a perceived conflict with POLICY STRAT4 and POLICY CRE1 of the adopted South Lanarkshire Local Plan. No other planning policy considerations, or other material considerations, were taken into account in the Officer’s decision. Major changes in national planning policy have been introduced by the Scottish Government since the formulation of the policies contained in the adopted Local Plan. These new statements of national planning policy ought to have been taken into account in the Officer’s decision. It is submitted that the failure to recognise and to take these material planning policy considerations, and other material considerations into effect, renders the Officer’s decision to refuse the application as being unreasonable and unsound.

3.2 An objective assessment of the SPP document (2010) shows the Review proposal to be wholly consistent with various aspects of current Government policy. It is submitted that the support which the proposal draws from Scottish Planning Policy and the benefit which the proposal offers to the local economy and environment are, as with Application CL/08/0207, more than enough to outweigh development plan considerations.

3.3 The proposal has attracted no objections from statutory consultees and there are no valid objections from members of the public. Indeed, the Delegated Report refers to an objection from Mrs Mary M. McLellan. Mrs McLellan has clarified (PRODUCTION 5) that her representations were misinterpreted by the Council and that she has no objections to the Review proposal.

3.4 The proposal will have no adverse impact on the character or amenity of the area. The character of the immediate area presently is typified by a scattering of isolated houses and farmsteads, and by

groups of more recently constructed houses many of which appear to be unrelated to natural features. The Review site is concealed from view from the public road and is surrounded by existing trees which could be augmented by planning conditions to require that the development is completely screened from public view. In this regard the proposal could be regarded as having a positive effect on local amenity.

3.5 For the reasons outlined above it is respectfully suggested that the Review proposal should be approved.

NEIL GAINFORD MRTPI
26 August 2010

LIST OF SUPPORTING DOCUMENTS REFERRED TO IN STATEMENT OF REASONS

| | |
|---------------|--|
| PRODUCTION 1: | Planning Committee Report on Application CL/08/0207 |
| PRODUCTION 2: | Extract from Circular 6/1990 |
| PRODUCTION 3: | Extract from Scottish Planning Policy |
| PRODUCTION 4: | Letter Dated 24 March 2010 regarding visibility splays |
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|  PLANNING COMMITTEE REPORT APPLICATION CL/08/0207 | Agenda Item 4 |
|---|------------------------------------|

| | |
|-------------------------|--|
| Report to: | Planning Committee |
| Date of Meeting: | 16 December 2008 |
| Report by: | Executive Director (Enterprise Resources) |

| | |
|---------------------------|--|
| Application No | CL/08/0207 |
| Planning Proposal: | Erection of 13 No. One and a Half Storey Dwellinghouses, Formation of Associated Vehicular Access and Installation of Sewerage Treatment Plant |

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Rockridge Construction Ltd
- Location : Units 1&3
Nisbet Way
Ravenstruther ML11 7SF

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 Listed)

2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application.
- (2) The application is Contrary to the Development Plan and an objection has been received. In accordance with Council procedures, a hearing may be required prior to determining the application.

3 Other Information

- ◆ Applicant's Agent: 929 Design Limited
- ◆ Council Area/Ward: 03 Clydesdale East
- ◆ Policy Reference(s): **Lower Clydesdale Local Plan (Adopted)**
 - Policy ENV2: Rural Area
 - Policy RES12: New Residential Development
 - Policy SLP 2: Rural Area
 - Policy IND11: Existing Industrial Uses outwith Industrial Areas

Finalised South Lanarkshire Local Plan - (As Modified)

- Policy STRAT4: Accessible Rural Area
- Policy CRE1: Housing in the Countryside
- Policy ECON2: Existing Industrial Uses

- outwith Industrial Areas
- Policy ENV11: Design Quality
- Policy ENV30: New Housing Development
- Policy ENV 33 – Development in the Countryside

◆ Representation(s):

- ▶ 6 Objection Letters
- ▶ 0 Support Letters
- ▶ 0 Comments Letters

◆ Consultation(s):

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

Scottish Water

Environmental Services

Roads and Transportation Services (South Division)

Railtrack Outside Parties Section

Planning Application Report

1 Application Site

- 1.1 The application site extends to 0.93 hectares and is located in an elevated position to the north of Haghalm Road mid way between the settlements of Cleghorn and Ravenstruther. The site is currently occupied by a builder's yard (incorporating a significant area of hardstanding and various sheds and containers) and an industrial unit used by the applicant for his construction and electrical contracting business. The site boundaries are clearly defined on the north by the main West Coast railway and on the west by the rail link to Lanark, both lines sitting above the site. There is an unmade track between the site and the Lanark branch line which provides access to a vacant area of land to the north where the two railway lines fork. On the eastern boundary lie four terraced residential properties known as Silvermuir Cottages, with three newer detached properties on Nisbet Way beyond. Land to the south of the site beyond Haghalm Road is open farmland. The ground levels within the site are fairly consistent throughout, although there is a one and a half metre rise in the north west corner of the site.
- 1.2 The site itself does not contain significant amounts of mature trees, although the southern boundary is characterised by a line of trees over 4 metres in height on the banking which slopes down to the public road. These are a mixture of rowan, birch and Scots pine and it is proposed to retain the entire stance. A large mature sycamore sits within the garden area on the western side of Silvermuir Cottages. The road between Haghalm Road and the three houses on Nisbet Way is adopted with the industrial unit and three of Silvermuir Cottages accessed by a private road. No.4 Silvermuir Cottages is directly accessed from Nisbet Way.

2 Proposal(s)

- 2.1 Detailed planning permission was originally sought for the redevelopment of the site for 14 detached houses. Following discussions with the applicants, the number of proposed units has been reduced to 13 detached, one and a half storey houses, in a mixture of four different styles. The houses will comprise of three or four bedrooms and some will have integral garages. Boundaries between the houses will be defined by 1.8metre timber fences.
- 2.2 The existing public road will be extended to serve the proposed houses resulting in a 5.5m wide road and a 2m wide footway along one side. Ten of the houses would be grouped around a cul-de-sac with the remaining three around a second smaller hammerhead. The existing access arrangements for three of the Silvermuir Cottages would be maintained, however the access for no.1 Silvermuir Cottages would be re-positioned to allow the provision of a new sewage treatment plant. This property will instead be accessed from the end of the cul-de-sac described earlier.
- 2.3 A new sewage treatment would be formed within the site which will serve the proposed houses and the four existing detached cottages and would have an outfall to an existing culvert which itself outfalls to the Mouse Water. An existing septic tank serving the four cottages would be removed. Existing trees on the embankment along Haghalm Road would be retained and new planting provided within the development.
- 2.4 The applicant has submitted a range of supporting information, including a noise impact assessment, design statement and bat survey. The applicants intend

relocating their business to the Lanark area and there will no impact on the existing workforce.

3 Background

3.1 Local Plan Background

- 3.1.1 The adopted Lower Clydesdale Local Plan identifies the site as being within the Rural Area. Policy ENV2 (Rural Area) states that development in the Rural Area should be of an appropriate form and meet the needs of the rural economy and communities. Development is preferred on sites identified in the local plan, on suitable infill/gap sites or where development can be integrated with existing building groups. Isolated proposals or those that would change the established character of the area will be resisted. Proposals for new development should comply with policy SLP2 which sets out the circumstances where new housing will be acceptable. These include cases where there is an economic justification, conversion of existing buildings or where the proposal would result in the redevelopment of derelict or degraded land (albeit new development should normally be restricted to one house).
- 3.1.2 Policy RES12: New Residential Development) does advise that the Council will seek to direct new housing to brownfield sites in preference to the release of land in greenfield locations. Policy IND11: Existing Industrial Uses Outwith Industrial Areas states the Council will monitor the operation of established industrial uses outwith established industrial areas. Where these adversely affect the amenity of the surrounding area their future expansion will be monitored. Their subsequent redevelopment is encouraged providing proposals conform to appropriate policies in the local plan.
- 3.1.3 The Finalised South Lanarkshire Local Plan - (As Modified) identifies the area as being within the Accessible Rural Area where Policy STRAT4 applies. This states that the strategy will be to build on the economic potential of the area's high quality environment. Development will be directed within settlements boundaries, and isolated or sporadic development will generally not be supported. New building will be permitted where it forms part of a proposal to rehabilitate disused or redundant traditional buildings where this consolidated such groups. Any new housing development should conform to Policy CRE1: Housing in the Countryside. This sets out the circumstances where new housing will be justified.
- 3.1.4 Policy ECON2: Existing Industrial Uses Outwith Industrial Areas states the Council will monitor the operation of established industrial uses outwith established industrial areas. Where these adversely affect the amenity of the surrounding area their future expansion will be monitored. The subsequent redevelopment is encouraged providing proposals conform to appropriate policies in the local plan.
- 3.1.5 Detailed proposals are to be assessed against Policies ENV11: Design Quality, ENV30: New Housing Development and ENV33: Development in the Countryside.

3.2 Government Advice/Policy

- 3.2.1 Policy SPP3: Planning for Housing advises that opportunities for new housing on land which has been previously developed in urban and rural areas will reduce the amount of Greenfield land required and therefore redevelopment of brownfield sites is preferred over Greenfield development. Both SPP3 and SPP15: Planning for Rural Development state that new housing outwith settlements can play a part in environmental renewal. It recognizes that small sites which cease to be required for their original purpose can be subject to re-use for residential development where this may result in environmental benefit and where criteria such as proximity to services, ease of access, provision of drainage and sewerage and fit in the landscape can be achieved

3.3 Planning Background

3.3.1 None

4 Consultation(s)

4.1 **Scottish Water** – no objections

Response: Noted

4.2 **Environmental Services** – Initially advised that a noise impact assessment was required to assess the impact of noise from the adjoining railway lines and provide mitigation measures.

Response: A noise impact assessment has been submitted by the applicants which confirms that noise levels in the proposed houses would be inappropriate. Following discussions with the applicants, strengthened glazing units will be implemented within the new houses and acoustic fencing will be provided along the boundaries to both lines in order to reduce levels to an acceptable standard.

4.3 **Roads and Transportation Services (Clydesdale)** – no objections subject to the provision of traffic calming on Haghholm Road and the carrying out of a speed check to determine appropriate sightlines at the junction of Nisbet Way with Haghholm Road.

Response: A speed check has been carried out which shows sightlines of 2.5m by 35m at this junction are acceptable. The applicants have shown they control the necessary land. In addition, they have agreed to provide additional road markings on Haghholm Road (a 'Slow' and 'Arrow' either side of the junction with Nisbet Way) and two new signs highlighting the 30mph speed limit already in operation at this location. These matters would be the subject of conditions if consent is granted.

4.4 **S.E.P.A. (West Region)** – no objections. The proposed foul drainage arrangements are acceptable but an application for a licence under Water Environment (Controlled Activities) Regulations 2005 will be required. A condition requiring the treatment of surface water to be in accordance with SUDS principle is required.

Response: Noted. The applicants have been made aware of the need for a licence while a condition as suggested would be attached if consent is granted.

4.5 **Network Rail** – No objections in principle subject to conditions covering various matters relating to drainage, security, fencing, storage of materials and management of the site during construction.

Response: Conditions would be attached to any consent granted to cover relevant planning matters.

5 Representation(s)

5.1 Following statutory neighbour notification and advertisement of the proposal as development potentially contrary to the development plan, 6 letters of representation have been received from four neighbouring property owners. The letters are summarised as follows:

(a) **I am concerned at the scale of the development as Haghholm Road is very narrow and never intended to be used by the number of houses which could exist if this application were approved. The combined effect of traffic which may be generated here and by the development on Haghholm Road in Cleghorn will exceed the capacity that the public road is capable of accommodating.**

Response: Roads and Transportation Services have no objections to the proposal subject to a number of conditions, including the installation of traffic

calming signage on Haghholm Road. In terms of the scale of the development, the layout has been amended by reducing the number of houses to thirteen and the proposal complies with the Council's Residential Development Guide.

- (b) **The scale of this development will have an impact on road safety, as the bridge which carries the Lanark branch line, and the masonry which supported the bridge on the former link to the Carstairs Junction severely restrict visibility and creates road safety issues for vehicles and pedestrians.**

Response: Roads and Transportation Services have agreed with the developer that traffic calming measures will be installed, at the developer's expense, on Haghholm Road to advise drivers of the bends in the road and to reinforce the 30mph speed limit.

- (c) **The present access road to Silvermuir Cottages was created a number of years ago to replace the unsafe access near the railway bridge, and involved a Lands Tribunal at the High Court. The site plan shows that there would be a shared access from the rear for numbers 1 – 4 Silvermuir Cottages which is contrary to the findings of the Tribunal. The original right of way and access at the rear of the cottages no longer exists and boundary fences are in place accordingly. The plans submitted give a false impression of the number of accesses already in existence – the proposal to give access to all 4 cottages over ground to the rear of no. 3 is not acceptable. If the development proceeds it is essential for the current access road to be upgraded to a suitable standard.**

Response: The applicant has been advised of the ownership issues at Silvermuir Cottages, and the layout amended to reflect the situation on the ground. This includes the access to no. 1 Silvermuir Cottages being taken from within the development site, between plots 3 and 4, whilst the access to no. 4 Silvermuir Cottages will continue to be from Nisbet Way. The remaining two cottages will continue to be accessed from the rear of their properties from the new public road. Conditions would be attached to the consent if granted to ensure existing access provision remains in place during the development and until any new access arrangements are completed. The road to serve the development will be constructed to adoptable standards.

- (d) **The current septic tank has been in existence since the cottages were built in 1899, and the cost of emptying it once a year is shared between 4 houses. It is proposed to move the tank from its current position in the factory site to the rear garden boundary of Nos. 1 Silvermuir Cottage, and this is not acceptable.**

Response: It should be noted that the existing septic tank is on land within the ownership of the applicants. The new treatment plant will serve the new housing and existing cottages and will be provided by the applicant at no cost to existing residents. However the maintenance of the treatment plant will be shared between all users as is the case at present. The applicants have given an undertaking to ensure the septic tank will remain in use until the new plant is available and I would propose a condition seeking a method statement covering the handover if consent is granted.

- (e) **The owner of the land through which the outfall to the Mouse Water is located has concerns that the existing pipe was designed to serve only four houses but is now also serving the industrial unit and the three houses in Nesbit Way. The drain is incapable of accommodating the**

additional development which may result in blockages and the resulting pollution of farmland.

Response: The provision of the treatment plant and its outfall will be required to be licensed by SEPA under separate legislation.

- (f) There are concerns over the parking of vehicles and construction traffic behind Silvermuir Cottages while will prevent access to the rear of these properties.**

Response: The occupiers of the cottages have a legal right of access to the rear of their properties and therefore it is not anticipated that this issue will arise. However a condition controlling the parking of vehicles associated with the proposed development can be added to the consent if granted.

- (g) The red line defining the application site is wrong as it includes land in the ownership of existing residents. The area in question would be the location of the proposed sewage treatment plant so there are doubts that this can be provided.**

Response: This matter has been raised with the applicants and they have confirmed all of the land within the application site is in their ownership.

- (h) The owners of adjoining land have not been notified of the application.**

Response: The applicants have served neighbour notification on other parties following the receipt of information by the Council.

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

6 Assessment and Conclusions

- 6.1 The applicant seeks detailed planning consent for the erection of 13 detached houses on land at Nisbet Way in Ravenstruther. The main issues in determining this application is its compliance with local plan policy and, in particular, if a justification for the proposal can be made if it fails to accord with policy. Other material considerations include the impact on visual amenity and the character of the surrounding rural area, road safety and the disposal of foul drainage.
- 6.2 The application site is not identified as lying within the settlement boundary of either Ravenstruther or Cleghorn as defined in both the adopted Lower Clydesdale Local Plan and the Finalised South Lanarkshire Local Plan - (As Modified). Rather it is within the Rural Area in the adopted local plan where Policy RES2 applies and the Accessible Rural Area in the finalised local plan where Policy STRAT4 is applicable.
- 6.3 In the case of the adopted local plan, Policy RES2 states that development is preferred on sites identified in the local plan, suitable infill/gap sites within settlements or where the development can be integrated with existing groups of buildings. Isolated development is to be avoided while proposals should not alter the established character of an area. The first two criteria of this policy are not met. The site is located adjacent to four existing cottages and the site is well contained by the adjoining railway embankments and the banking on Haghholm Road. The proposal does not in my opinion represent isolated development given the existing housing and the currently intensive use of the site. In addition, while the proposal is of a significant scale when compared to the existing built form, it can be argued that the established character of the area has been altered by the presence of the industrial unit and the storage yard and the adjoining railway lines and associated embankments.

- 6.4 In terms of the finalised local plan, Policy STRAT4 states that the strategy for the Accessible Rural Area will be to build upon the economic potential of the area's high quality natural and built environment. Development is to be directed into settlements or within settlement boundaries where small scale expansion has been identified. New housing outwith settlement boundaries will generally only be permitted under exceptional circumstances set out in Policy CRE1. In this case, the proposal clearly fails to comply with the main aims of Policy STRAT4 in that the site is outwith the defined settlement boundaries of Ravenstruther and Cleghorn and none of the circumstances in CRE1 by which new residential development may be justified are met. However, I do consider that the removal of the existing industrial use would enhance the visual amenity of the area. This is important at this location as the site is adjacent to two railway lines and the site is visually prominent from the wider area.
- 6.5 Policy RES12 of the adopted local plan does seek to direct new residential development to brownfield sites in preference to land in greenfield locations. While this generally applies to brownfield sites within urban areas, it is recognised that the scale and intensity of the current industrial use at the site is significant in the context of the surrounding area and represents a considerable incursion into the rural area. As such I consider its redevelopment with a high quality housing development will enhance the amenity and character of the area and will relieve pressure for development on undeveloped land elsewhere.
- 6.6 Policies IND11 of the adopted local plan and ECON2 of the finalised local plan both advise that industrial uses outwith established industrial areas will be monitored for their impact on the impact on traffic and environmental grounds. The relocation of these uses and subsequent redevelopment is encouraged. The site in question is not identified as an industrial area and is not in an appropriate location, in terms of the uses currently carried out there and its relationship to the public road network and adjoining houses. The applicants are re-locating to other premises and there is potential for a more intensive industrial occupier to move into the site over which there are no planning controls, to the detriment of the adjoining residents. The continuation of the use of the site for these purposes is not appropriate in planning terms. The proposal therefore accords with both of these policies.
- 6.7 In terms of the appropriateness of the proposal in land use policy terms, it is concluded that the proposal does not comply with Policies RES2 or STRAT4 for the reasons set out above and as such fails to accord with the strategy of the adopted and finalised local plans for the rural area. However, I do consider that a high quality residential development is acceptable in this location as the site is brownfield in nature, it is within an area where there has been significant incursion of urban uses (including railway development), it is self-contained physically and the existing use is incompatible with the adjoining residential environment
- 6.8 Policies ENV11, ENV30 and ENV33 of the finalised local plan all provide detailed guidance on new development. In general, it should promote quality and sustainability in its design and layout and make a positive contribution to the character and appearance of the environment. In this case, the proposal is of an appropriate density and form that respects adjacent housing development and the character of the area while existing trees would be retained and new planting provided within the site to soften the appearance. The provision of one and a half storey houses will reduce the overall physical and visual impact while the topography of the site provides a high degree of self-containment. The proposed houses are of an appropriate rural design while traditional materials will be used. The layout complies with the Council's guidelines on new residential development in terms of plot ratio, distances to boundaries and adjoining houses and the provision of private

and public open space. There is no adverse impact on biodiversity or natural resources and a bat survey provided by the applicants shows these species are not present at the site.

- 6.9 A number of objections have been received from residents at Silvermuir Cottages relating to traffic generation, access to their properties and foul drainage. In terms of the impact on road safety, the increase in traffic generated by this proposal compared to the existing industrial use will be negligible and will in any case be of a lesser intensity than at present due to the removal of commercial vehicles. Roads and Transportation Services have not objected to the application and the applicants will provide new signage and road markings on Haghalm Road to highlight the 30 mph speed limit currently in force and the geometry on the road. Concerns have been raised regarding access to individual properties, however the proposed drawings show that access to only one existing property will be altered. The applicants have given a commitment to maintain existing access arrangements during the construction of the houses and this will be re-inforced through condition. Similarly, use of the existing septic tank will be retained while a new treatment is constructed following which existing residents will have access to the new facility
- 6.10 In conclusion, the proposal is contrary to the adopted and finalised local plans. However, overall, I consider the environmental benefits of redeveloping this brownfield site currently occupied by an industrial building and storage area outweigh the provisions of the development plan. The extent and scale of the proposed development will lead to a high quality development that will respect the site and surrounding area. I therefore recommend that detailed planning permission be granted.
- 6.11 It is considered the proposal is an acceptable departure from the Development Plan for the following reasons:
- The proposal involves the redevelopment of a significant brownfield site for new housing in accordance with Policy RES12 of the adopted Lower Clydesdale Local Plan and as such will relieve pressure for development proposals on greenfield land.
 - The proposal complies with the aims of policy IND11 of the adopted Lower Clydesdale Local Plan and policy ECON2 of the finalised South Lanarkshire Local Plan in that it will result in the relocation of an industrial use from a sensitive location outwith a main industrial area and adjacent to existing housing, resulting in traffic and environmental benefits for the site and wider area.
 - The proposal will result in an appropriate high quality residential development which complies with policy guidelines on new development in the South Lanarkshire Local Plan and the Council's guidelines on new residential development.
 - The site is physically self-contained and there will therefore be no adverse impact on the visual amenity of the area.
 - The proposed new signage and road markings on Haghalm Road will result in road safety improvements.
 - There are no infrastructure constraints.

7 Reasons for Decision

- 7.1 For the reasons outlined in paragraph 6.11 above.

Iain Urquhart
Executive Director (Enterprise Resources)

2 December 2008

Previous References

- ◆ None

List of Background Papers


- ▶ Application Form
- ▶ Application Plans

- ▶ Consultations
 - Railtrack Outside Parties Section 02/05/2008
 - Environmental Services 25/04/2008
 - Roads and Transportation Services (South Division) 09/05/2008
 - S.E.P.A. (West Region) 18/07/2008
 - Roads and Transportation Services (South Division) 29/10/2008

- ▶ Representations
 - Representation from : Mrs Jessie Meikle, 3 Silvermuir Cottages, Ravenstruther, ML11 7SF, DATED 04/04/2008
 - Representation from : Mr A & Mrs M Jackson, 2 Silvermuir Cottages, Ravenstruther, ML11 7SF, DATED 07/04/2008
 - Representation from : John Hamilton, Silvermuir Farm, Ravenstruther, Lanark, ML11 7SF, DATED 07/05/2008
 - Representation from : Mr & Mrs A Jackson, 2 Silvermuir Cottages, Ravenstruther, Lanark, ML11 7SF, DATED 01/05/2008
 - Representation from : Mrs Kathleen Langton, c/o J Watson Scott & Co, Solicitors, McAdam House, 1 Cadzow Lane, Hamilton, ML3 6AY, DATED 13/06/2008
 - Representation from : Mr & Mrs A Jackson, 2 Silvermuir Cottages, Ravenstruther, Lanark, ML11 7SF, DATED 04/11/2008

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

Ailsa Graham, Planning Officer, Council Offices, South Vennel, Lanark ML11 7JT



Detailed Planning Application

PAPER APART – APPLICATION NUMBER : CL/08/0207

CONDITIONS

- 1 That the development hereby permitted shall be started within five years of the date of this permission.
- 2 That prior to any works commencing on site, a Method Statement shall be submitted which details the arrangements for the continuous provision of foul drainage for the existing properties known as Silvermuir Cottages, both during and after the construction of the development. The Method Statement shall be submitted to and approved by the Council as Planning Authority and thereafter implemented to the Council's satisfaction.
- 3 That before any of the houses hereby approved are occupied, the new sewage treatment plant shall be implemented in accordance with the current code of practice BS6297:1983 and to the satisfaction of the Council as Planning Authority.
- 4 That prior to any works commencing on site, a Method Statement shall be submitted which details the arrangements for the continuous vehicular access to the existing properties known as Silvermuir Cottages, both during and after the construction of the development. The Method Statement shall be submitted to and approved by the Council as Planning Authority and thereafter implemented to the Council's satisfaction.
- 5 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 6 That all roofs of the dwellinghouses hereby approved shall be clad externally in natural slate or a high quality slate substitute.
- 7 That before any development commences on site or before any materials are ordered or brought to the site, details and samples of all materials to be used as external finishes on the development shall be submitted to and approved by the Council as Planning Authority.
- 8 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.
- 9 That the existing trees to be retained must be protected in accordance with methods as set out in BS5837/1991 during and until completion of all site operations and building works.
- 10 That before any work commences on the site, a scheme of landscaping shall be submitted to the Council as Planning Authority for written approval and it shall include:(a) an indication of all existing trees and hedgerows plus details of those to be retained and measures for their protection in the course of development; (b) details and specification of all trees, shrubs, grass mix, etc.; (c) details of any top-soiling or other treatment to the ground; (d) sections and other necessary details of any mounding, earthworks and hard landscaping; (e) proposals for the initial and future maintenance of the landscaped areas; (f) details of the phasing of these

works; and no work shall be undertaken on the site until approval has been given to these details.

- 11 That prior to any work commencing on the site, a maintenance management schedule for the landscaping scheme approved under the terms of Condition 10 above shall be submitted to and approved by the Council as Planning Authority. Thereafter, the landscaping shall be maintained in accordance with the approved management schedule to the satisfaction of the Council.
- 12 That before development starts, details of the new retaining wall coloured purple on the approved plans shall be submitted to and approved by the Council as Planning Authority and thereafter all approved works shall be completed to the satisfaction of the Council prior to any of the dwellinghouses hereby approved being occupied.
- 13 Notwithstanding the plans hereby approved, traffic calming measures shall be installed at the developers expense, at suitable locations along Silvermuir Road/Hagholm Road as agreed with the Council as Planning and Roads Authority. The measures shall generally be based on Drawing No 929009-P-011(Nov 08) as provided by 929 Design and shall be completed and operational prior to the completion of the first dwellinghouse on the application site, all to the satisfaction of the Council as Planning Authority.
- 14 That before any dwellinghouse hereby approved is occupied, the entire access road and footpath network serving the development shall be laid out and constructed in accordance with the specification of the Council as Roads and Planning Authority.
- 15 That the developer shall arrange for any alteration, deviation or reinstatement of statutory undertakers apparatus necessitated by this proposal all at his or her own expense.
- 16 Prior to the commencement of development on site, an energy statement which demonstrates that on-site zero and low carbon energy technologies contribute at least an extra 15% reduction in CO₂ emissions beyond the 2007 building regulations carbon dioxide emissions standard, shall be submitted to and approved in writing by the Council as Planning Authority. The statement shall include:
 - a) the total predicted energy requirements and CO₂ emissions of the development, clearly illustrating the additional 15% reduction beyond the 2007 building regulations CO₂ standard;
 - b) a schedule of proposed on-site zero and low carbon energy technologies to be included in the development and their respective energy contributions and carbon savings;
 - c) an indication of the location and design of the on-site energy technologies; and
 - d) a maintenance programme for the on-site zero and low carbon energy technologies to be incorporated.
- 17 The approved on-site zero and low carbon energy technologies shall be fully installed and operational prior to the occupation of any approved buildings and

shall thereafter be maintained and shall remain fully operational in accordance with the approved maintenance programme, unless otherwise agreed in writing by the Council as Planning Authority.

- 18 That the use of the garages hereby permitted shall be restricted to private use incidental to the enjoyment of the dwellinghouse on the site and no commercial activity shall be carried out in or from the garage.
- 19 That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, a change of use of any garage (whether integral or detached) to living accommodation associated with the dwellinghouse on the plot shall be subject to a further planning application to the Council as Planning Authority.
- 20 That the approved landscaping scheme shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following occupation of the building(s) or completion of the development hereby approved, whichever is the sooner, and shall thereafter be maintained and replaced where necessary to the satisfaction of the Council.
- 21 That before development starts, full details of the design and location of all fences and walls, including any retaining walls, to be erected on the site shall be submitted to and approved by the Council as Planning Authority.
- 22 That before any of the dwellinghouses situated on the site upon which a fence is to be erected is occupied, the fence or wall for which the permission of the Council as Planning Authority has been obtained under the terms of Condition 21 above, shall be erected and thereafter maintained to the satisfaction of the Council.
- 23 That notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any such order revoking or re-enacting that order), no gates, fences, walls or other means of enclosure shall be erected between the front of the dwellinghouse and the adjoining road.
- 24 That before any of the dwellinghouses hereby approved are occupied a visibility splay of 2.5metres by 35 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.
- 25 That no development shall commence until details of surface water drainage arrangements have been submitted to and approved in writing by the Council as Planning Authority; such drainage arrangements will require to comply with the principles of sustainable urban drainage systems and with the Council's Sustainable Drainage Design Criteria and requirements.
- 26 That the recommendations of the noise impact assessment carried out by Nicol Acoustic Consultancy shall be implemented to the entire satisfasction of the Council as planning Authority. For the avoidance of doubt an acoustic fence shall be erected along the boundaries marked in GREEN on the approved plan before any of the houses hereby approved are occupied. The fence shall be as shown on drawing no 929009-P-010 and shall be maintained to the satisfaction of the Council.

REASONS

- 1 To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
- 2 These details have not been submitted.
- 3 To safeguard the residential amenity of the area.
- 4 These details have not been submitted or approved.
- 5 In the interests of amenity and in order to retain effective planning control.
- 6 In the interests of the visual amenity of the area.
- 7 In the interests of amenity and in order to retain effective planning control.
- 8 To ensure the protection and maintenance of the existing mature trees within the site
- 9 To ensure that adequate steps are taken to protect existing trees on the site throughout the period of the proposed building operations.
- 10 In the interests of the visual amenity of the area.
- 11 In the interests of amenity.
- 12 These details have not been submitted or approved.
- 13 In the interest of road safety
- 14 To ensure satisfactory vehicular and pedestrian access facilities to the site.
- 15 In order to retain effective planning control
- 16 To secure a reduction in carbon dioxide emissions.
- 17 To secure the timeous implementation of on-site zero and low carbon energy technologies.
- 18 To retain effective planning control and safeguard the amenity of the area.
- 19 In order to retain effective planning control
- 20 In the interests of amenity.
- 21 These details have not been submitted or approved.
- 22 In order to retain effective planning control
- 23 In the interests of amenity and in order to retain effective planning control.
- 24 In the interest of road safety
- 25 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 on-site and off-site flooding.
- 26 To safeguard the residential amenity of the area.



For information only

For information only

Planning Review
Application CL/10/0175
Silvermuir Road, Ravenstruther
PRODUCTION 2 (Extract from Circular 6/1990)

Circular 6/1990

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| Description | Circular 6/1990 AWARDS AND EXPENSES IN APPEALS AND OTHER PLANNING PROCEEDINGS AND IN COMPULSORY PURCHASE ORDER INQUIRIES |
| ISBN | n/a (Web Only) |
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Circular 6/1990

Circular 25/1966 is cancelled

The Chief Executive
Regional and Islands Councils

The Chief Executive
District Councils (except in Highland, Borders and Dumfries and Galloway Regions)

Our ref: PGG/1/5
22 March 1990

Dear Sir

AWARDS AND EXPENSES IN APPEALS AND OTHER PLANNING PROCEEDINGS AND IN COMPULSORY PURCHASE ORDER INQUIRIES

Introduction

1. This Circular provides advice on the manner in which the Secretary of State's power to order one party to certain proceedings to meet the expenses of another party is exercised. It applies to planning appeals and other planning proceedings under Parts III, IV, V, IX, X of the Town and Country Planning (Scotland) Act 1972 and also to inquiries into compulsory purchase orders. A copy is enclosed for your Director of Planning.

2. This Circular also explains the conditions which require to be met before an award of expenses will be made. It sets out examples of some of the situations in which an award of expenses may be made either against a planning authority or against an appellant or other party. It also covers the award of expenses in respect of compulsory purchase orders and analogous orders and gives guidance on partial awards and making an application for expenses.

Background

3. Section 267(7) of the Town and Country Planning (Scotland) Act 1972 (the 1972 Act) empowers the Secretary of State to make an order as to the expenses of the parties to an inquiry. Section 267A of the 1972 Act enables the Secretary of State to make an award of expenses in relation to proceedings which do not give rise to an inquiry, in particular in cases determined by written submissions. Paragraph 5 of Schedule 7 to the 1972 Act also enables Reporters to exercise the Secretary of State's power to award expenses in specified cases. These provisions were inserted into the 1972 Act by the Housing and Planning Act 1986 and come into force on 31 March 1990.

4. In planning proceedings the parties are normally expected to meet their own expenses and expenses are only awarded on grounds of unreasonable behaviour. Awards of expenses do not necessarily follow the decision on planning merits. An appellant is not awarded expenses simply because his appeal has succeeded, nor is the planning authority awarded expenses simply because the appeal is dismissed. In the case of compulsory purchase and analogous orders, however, where an inquiry has been held, the Secretary of State will normally make an award of expenses as a matter of course to a successful statutory objector against the authority which made the order. This represents no change in the Secretary of State's policy on the awarding of expenses in compulsory purchase order inquiries.

EXPENSES IN RESPECT OF APPEALS AND OTHER PLANNING PROCEEDINGS

5. Before an award of expenses is made, the following conditions will normally need to have been met:-

5.1 One of the parties has applied for an award at the appropriate stage of the proceedings. In the case of a public local inquiry this will normally be before the inquiry is concluded. In the case of written submissions procedure, the claim for expenses should normally accompany the party's final written submissions.

5.2 The party against whom the claim is made has acted unreasonably.

5.3 This unreasonable conduct has caused the party making the application to incur unnecessary expense, either because it should not have been necessary for the case to come before the Secretary of State for determination or because of the manner in which the party against whom the claim is made has conducted his part of the proceedings.

6. Listed below are examples of unreasonable behaviour which may give rise to an award of expenses. It should be emphasised that this list is illustrative, not exhaustive, and claims for expenses which fulfil the conditions outlined in paragraph 5 will be considered, even though they do not come within any of the examples listed. What is unreasonable remains a matter of judgement in the circumstances of each case and each application for expenses will be decided on its merits in the circumstances of each particular case.

Examples of Unreasonable Behaviour

7. Unreasonable behaviour on the part of the planning authority may include:-

- Failing to give complete, precise, and relevant reasons for refusal of an application. As stated in SDD Circular 17/1985, there is a presumption in favour of granting planning permission having regard to all material considerations, unless there are sound and clear cut reasons for refusal. The planning authority must be able to support its reasons for refusal and they will be expected to show that they have reasonable planning grounds for their decision.

A partial award may be appropriate in respect of one or more reasons which were not adequately supported by the planning authority in the course of the appeal proceedings (see paragraph 13).

- Reaching their decision, without reasonable planning grounds for doing so.
- Refusing an application for planning permission solely on the grounds that it does not accord with the provisions of the development plan and without having had regard to other material considerations. Proper consideration should also be given to the merits of the application, the age of the development plan and to relevant changes in circumstances since the development plan was approved or adopted.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning reasons. While the planning authority will need to consider the substance of any local opposition to a particular application, their duty is to decide a case on its planning merits.
- Refusing an application if an earlier appeal against the refusal of a similar application in respect of the site has been dismissed, where it is clear from the decision on that appeal that no objection would be seen to a revised application in the form submitted.
- Failing to take account of relevant statements of Government policy in Departmental Circulars or of relevant precedents of which the planning authority were aware.
- Imposing conditions on a grant of planning permission which clearly fail to meet the criteria set out in SDD Circular 18/1986 or which so limit an appellant's freedom to dispose of his property as to amount to an unreasonable restriction.
- Serving an enforcement notice without undertaking reasonable investigations to establish whether there has been a breach of planning control or without taking account of case law and of policy and advice set out in Departmental Circulars.

8. Examples of unreasonable behaviour on the part of the appellant may include:-

- Pursuing an appeal in circumstances where there is no reasonable likelihood of success. It may have been clear from a decision on a previous appeal in respect of the same site and the same or similar development that the development would not be permitted. If circumstances had not changed materially in the meantime and the appellant was aware of the decision, expenses may be awarded. Alternatively, it may have been obvious from Government statements of policy or judicial authority that the appeal had no reasonable prospect of being successful.
- Withdrawing the appeal without giving sufficient time for reasonable notice of the cancellation of the inquiry to be given to the parties.
- Deliberately unco-operative behaviour by any appellant, whether or not professionally represented. This may include refusing to explain the grounds of appeal or refusing to discuss the appeal.

9. Unreasonable behaviour on the part of either party may include:-

- Introducing a new matter (eg a new reason for refusal or new ground of appeal) at a late stage in the proceedings.
- Refusing to supply adequate grounds of appeal or to co-operate in settling agreed facts or supplying relevant information which unnecessarily prolongs the proceedings.
- Refusing to co-operate in setting a date for an inquiry or accompanied site inspection.
- Failing to comply with the requirements of any statutory procedural rules by, for example, not providing a pre-inquiry statement when required to do so, or failing to submit written

submissions within the prescribed time limits. In these circumstances account will be taken of the extent to which an appellant has the benefit of professional advice.

- Failure to comply with procedural requirements to the serious prejudice of the other party and leading to the adjournment of the inquiry. In these circumstances an award may be made relating to the extra expense arising from the adjournment.

Third Parties

10. Awards of expenses either in favour of or against third parties will be made only in exceptional circumstances. In general, third parties will not be eligible to receive expenses where unreasonable behaviour by one of the main parties relates to the **substance** of that party's case (eg the grounds of appeal or the reasons for refusing planning permission are considered unreasonable). But where unreasonable conduct **at a public local inquiry** causes unnecessary expense, third parties may be awarded expenses, or have expenses awarded against them. An example would be an adjournment caused by unreasonable conduct whether of the third party or of another party.

Making an Application for Expenses

11. Where a case has been dealt with by means of public inquiry, an application for expenses should be made to the Reporter at the inquiry. Expenses are awarded because of unreasonable conduct and not on the basis of success and it is normally clear by this stage whether there are grounds for an application. An application made to the Reporter before the inquiry is over enables him to consider the arguments for and against an award. It can be dealt with simply and speedily and the Reporter's decision on the appeal will not be affected in any way by the fact that an application for expenses has been made to him. If the appeal is one which has been delegated to the Reporter for decision, the application for expenses will also be determined by him in future. If the appeal is to be decided by the Secretary of State, the Reporter will report the application and make a recommendation.

12. Where a case has been dealt with on the basis of written submissions, unreasonable behaviour which may justify an award of expenses may not become apparent until fairly late in the proceedings, for example where there has been failure to submit written submissions within the prescribed time limits, or where new evidence is produced at a late stage. In written submissions cases, therefore, an application for an award of expenses may be made at any time up to the submission of the party's final written submissions. Applications for awards of expenses should be made in writing to The Scottish Office Inquiry Reporters Unit in these cases.

13. An application for expenses made after the conclusion of a public local inquiry, or after the final written submissions have been made in a case being dealt with by written submissions procedures, will only be entertained if the party claiming expenses can show good reasons for not having submitted the application earlier. In the circumstances where such an application is entertained, the decision will in all cases be taken on the basis of an exchange of written submissions. Such late claims should be submitted at the earliest opportunity. If the Secretary of State agrees to entertain the claim, the parties involved should be concise and sparing in their exchange of submissions and observe the time limits set by the Secretary of State. If this is not done, the application may be determined on the basis of submissions already before the Secretary of State without waiting for further submissions to be received.

Amount of Award

14. Section 267(7) of the 1972 Act entitles the Secretary of State to make orders as to "the expenses incurred by the parties to the inquiry". Section 267A gives the Secretary of State the same

powers in respect of cases dealt with by written submissions. The Secretary of State interprets this as enabling him to award to a party the expenses necessarily and reasonably incurred in relation to the proceedings before him. The Secretary of State does not himself determine the amount of expenses payable. The party awarded expenses should in the first instance submit details of their expenses to the other party with a view to reaching agreement on the amount. If they are unable to reach agreement the party awarded expenses can refer the case to the Auditor of the Court of Session who will tax such accounts in a manner similar to that in which the taxes judicial accounts in the Court of Session. Submission of accounts to the Auditor will involve agreement to pay the auditor's fee but this is not likely to be more than a small proportion of the expenses in any particular case.

Partial Awards

15. Some cases do not justify a full award of expenses, and in these circumstances a partial award may be made. One example is where a planning authority have failed to substantiate only one of several reasons for refusing a planning application. In this case an award would be limited to the expenses incurred in appealing against that reason. Similarly, where an adjournment of an inquiry is caused by the unreasonable conduct of one of the parties, the award of expenses would be limited to the extra expense caused by the adjournment or delay.

EXPENSES IN RESPECT OF COMPULSORY PURCHASE AND ANALOGOUS ORDERS

General Principles

16. There is a distinction between cases where applicants take the initiative, such as in applying for planning permission or undertaking development allegedly without planning permission, and cases where objectors are defending their rights or interests which are the subject of a compulsory purchase order. If a statutory objector to a compulsory purchase order is successful, an award of expenses will be made in his favour unless there are exceptional reasons for not doing so. To enable an award to be made on grounds of success the claimant must have made formal objections to the order; the order must have been the subject of a public local inquiry; and the claimant must normally have attended (or been represented at) the inquiry and been heard as a statutory objector. In addition, the claimant must have had his objection sustained by the Secretary of State's refusal to confirm the order or by his decision to exclude the whole or part of the objector's property. The award will be made against the authority which made the order and does not of itself imply unreasonable behaviour on the part of the authority.

17. Occasionally circumstances arise in which an award of expenses may be made to an unsuccessful objector or to the order making authority because of unreasonable behaviour by the other party. In practice such an award is likely to relate to circumstances in which one party has acted unreasonably and this unreasonable conduct has caused the other party unnecessary expense.

Partly Successful Objectors

18. Where a statutory objector is partly successful in opposing a compulsory purchase order the Secretary of State will normally make an award of a proportion of the relevant expenses. Such cases arise for example where the Secretary of State excludes part of the objector's land when confirming a compulsory purchase order.

Analogous Orders and Proposals

19. The Secretary of State normally awards expenses to successful objectors to orders and proposals which are analogous to compulsory purchase orders. In general the Secretary of State will consider an order or proposal to be analogous to a compulsory purchase order if its making or confirmation takes away from the objector some right or interest in land. Some examples of orders and proposals which are considered to be analogous to compulsory purchase orders are set out in the Appendix.

Plural Objections

20. Sometimes a single inquiry is held into 2 or more proposals, only one of which is a compulsory (or analogous) order - for example an application for planning permission and an order for the compulsory acquisition of land included in the application. Where a statutory objector to both proposals appears at such an inquiry and is successful in objecting to the compulsory purchase order, he will be entitled to an award in respect of that part of his expenses which has been incurred in relation to the compulsory purchase order only. He is not however precluded from making an application for the remainder of his expenses if he considers that the authority has acted unreasonably.

Further Copies and Enquiries

21. Further copies of this Circular and a list of current planning Circulars may be obtained from Room 6/84, New St Andrew's House (031-244-4082) and any enquiries should be addressed to Mr S Farrell (031-244-4209).

Yours faithfully

J S GRAHAM

COMPULSORY PURCHASE

ANALOGOUS ORDERS

- Orders under Section 3 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 extinguishing a public right of way over land.
- Unfitness Orders under Schedule 2 to the Land Compensation (Scotland) Act 1963.
- Orders under Section 14 of the Countryside (Scotland) Act 1967 ("the 1967 Act") regarding access to open country as defined by Section 10 of the Act.
- Orders under Section 31 of the 1967 Act creating a public path.
- Orders under Section 34 of the 1967 Act regarding the extinguishment of a public path.
- Orders under Section 35 of the Countryside (Scotland) Act 1967 diverting a public path.
- Orders under Section 42 of the Town and Country Planning (Scotland) Act 1972 ("the 1972 Act") revoking or modifying a planning permission.
- Orders under Section 49 of the 1972 Act requiring:-
 - a. Discontinuance of a use of land, or imposing conditions on the continuance of a use of land; or
 - b. the removal or alteration of buildings or works; or
 - c. the removal or alteration of plant or machinery used for winning or working minerals.

- Orders under Section 49A of the 1972 Act prohibiting the resumption of winning and working of minerals.
- Orders under Section 49B of the 1972 Act requiring that steps be taken for the protection of the environment following the suspension of winning and working of minerals.
- Orders under Section 56J * of the 1972 Act revoking or modifying a hazardous substances consent.
- Orders under Section 203(1)(b) of the 1972 Act extinguishing a public right of way over land.
- Orders under paragraph 9 of Schedule 8 to the Housing (Scotland) Act 1987 extinguishing a public right of way over land.

Planning Review

Application CL/10/0175

Silvermuir Road, Ravenstruther

PRODUCTION 3: EXTRACT FROM SCOTTISH PLANNING POLICY 2010

Scottish Planning Policy

February 2010

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ISSN 1741 1203

INTRODUCTION

1. The Scottish Government's planning policies are set out in the National Planning Framework, this SPP, Designing Places, Designing Streets¹ and Circulars². This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and
 - the Scottish Government's expectations of the intended outcomes of the planning system.
2. This approach places planning in the wider context of Scottish Government aims and policies and clarifies the Government's expectations of the system and planning services. It is a brief statement of policy and does not attempt to provide a comprehensive summary or explanation of the planning system in Scotland or to describe the full and diverse range of objectives to which planning may contribute. This SPP does not restate policy and guidance expressed elsewhere. The wider policy framework including the National Planning Framework, Designing Places, Designing Streets and Circulars, should be taken into account in decision making. Policy linked to direct legislative requirements is expressed in terms of what must be done. Policy linked to Scottish Ministers' requirements for an efficient and effective planning system is expressed in terms of what should be done. The policies expressed in this SPP should inform the content of development plans, should be a consideration in decisions on planning applications and should be used to inform development proposals from initial concept to implementation.

THE PURPOSE OF PLANNING

3. Planning guides the future development and use of land. Planning is about where development should happen, where it should not and how it interacts with its surroundings. This involves promoting and facilitating development while protecting and enhancing the natural and built environment in which we live, work and spend our leisure time. Careful attention to layout, design and construction should result in places where people want to be.
4. The Scottish Government believes that a properly functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth. The way in which the planning system is structured and operated should be directed towards that purpose and to supporting the Scottish Government's five strategic objectives and fifteen national outcomes³.
5. The Government believes strongly in the value of forward-looking, visionary and ambitious plans that will guide development. These plans provide guidance to potential developers and investors; provide various interests with the opportunity to participate in shaping the future of their nation and their communities; and give public authorities a structure within which decisions can be made with confidence. Development plans should lead and guide change. The statutory requirement to keep development plans up to date⁴ will ensure that they reflect and respond to emerging pressures and issues.

¹ Due for publication in early 2010

² All documents are available at www.scotland.gov.uk/Topics/Built-Environment/planning

³ For more information about the Scottish Government's central purpose, strategic objectives and national outcomes see www.scotland.gov.uk/About/scotPerforms

⁴ Planning etc. (Scotland) Act 2006 Sections 10(8) and 16(1)

35. The Scottish Government supports the five guiding principles of sustainable development set out in the UK shared framework for sustainable development¹². The five principles are:
- living within environmental limits,
 - ensuring a strong, healthy and just society,
 - achieving a sustainable economy,
 - promoting good governance, and
 - using sound science responsibly.

Achieving a sustainable economy, promoting good governance and using established science responsibly are essential in enabling a strong, healthy and just society and living within environmental limits. The fundamental principle of sustainable development is that it integrates economic, social and environmental objectives. The aim is to achieve the right development in the right place. The planning system should promote development that supports the move towards a more economically, socially and environmentally sustainable society.

36. The Scottish Government's commitment to sustainable development is reflected in its purpose of creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. This is set out in the Government Economic Strategy, supported by the fifteen National Outcomes. Sustainable economic growth means building a dynamic and growing economy that will provide prosperity and opportunities for all, while respecting the limits of our environment in order to ensure that future generations can enjoy a better quality of life too.
37. The planning system has an important role in supporting the achievement of sustainable development through its influence on the location, layout and design of new development. Decision making in the planning system should:
- contribute to the reduction of greenhouse gas emissions in line with the commitment to reduce emissions by 42% by 2020 and 80% by 2050, contribute to reducing energy consumption and to the development of renewable energy generation opportunities,
 - support the achievement of Zero Waste objectives, including the provision of the required waste management installations,
 - protect and enhance the cultural heritage,
 - protect and enhance the natural environment, including biodiversity and the landscape,
 - maintain, enhance and promote access to open space and recreation opportunities,
 - take into account the implications of development for water, air and soil quality, and
 - support healthier living by improving the quality of the built environment, by increasing access to amenities, services and active travel opportunities, and by addressing environmental problems affecting communities.
38. **Decisions on the location of new development should:**
- **promote regeneration and the re-use of previously developed land,**
 - **reduce the need to travel and prioritise sustainable travel and transport opportunities,**
 - **promote the development of mixed communities,**
 - **take account of the capacity of existing infrastructure,**
 - **promote rural development and regeneration, and**
 - **prevent further development which would be at risk from flooding or coastal erosion.**

¹² *One Future – Different Path: The UK's Shared Framework for Sustainable Development* (2005)

65. A retail impact analysis should be undertaken where a retail and leisure development over 2,500 square metres gross floorspace outwith a defined town centre is proposed which is not in accordance with the development plan. An impact analysis may also be necessary for smaller retail and leisure proposals which may have a significant impact on vitality and viability. The impact analysis should consider the relationship of the proposed development with the network of centres identified in the development plan. In carrying out an analysis, a broad-based approach should be adopted. It should not be necessary to attempt detailed calculations or forecasts of a sector's growth as small variations in assumptions can lead to a wide range of forecasts. Authorities and developers should, where possible, agree data and present information on areas of dispute in a succinct and comparable form.

HOUSING

66. **The Scottish Government is committed to increasing the supply of new homes and the planning system should contribute to raising the rate of new housebuilding by identifying a generous supply of land for the provision of a range of housing in the right places.** The planning system should enable the development of well designed, energy efficient, good quality housing in sustainable locations and allocate a generous supply of land to meet identified housing requirements across all tenures.

Housing Requirements

67. Housing need and demand assessment provides the evidence base for defining housing supply targets in local housing strategies and allocating land for housing in development plans. The Scottish Government's Housing Need and Demand Assessment Guidance sets out the framework that local authorities should follow to develop a good understanding of how local housing markets operate and promotes an integrated approach to assessments by local authority housing and planning services. The assessment should be undertaken at a functional housing market area level and consider the operation of the housing system as a whole, covering all tenures. Where the housing need and demand assessment is considered robust and credible by the Scottish Government, the approach used will not normally be considered at a development plan examination¹³.
68. A housing market area is a geographical area where the demand for housing is relatively self-contained. Local authorities should define the housing market areas that will be used in determining housing requirements by following one of the approaches set out in the Housing Need and Demand Assessment guidance. Housing market areas may significantly overlap and will rarely coincide with local authority boundaries. Local authorities are therefore encouraged to co-operate regionally in housing market partnerships, which may also include other organisations such as housing associations and developers.
69. The Housing (Scotland) Act 2001 requires local authorities to prepare a local housing strategy supported by an assessment of housing need and demand. Local housing strategies consider the housing system as a whole and include a housing supply target covering all tenures based on the outcomes of the housing need and demand assessment. The local housing strategy provides the strategic direction for addressing housing need and demand and should inform future investment in housing across a local authority area. The preparation of local housing strategies and development plans should be closely aligned.

Housing Land

70. The delivery of housing through the development plan to support the creation of sustainable mixed communities depends on a generous supply of appropriate and effective sites being made available to meet need and demand, and on the timely release of allocated sites. The scale, nature and distribution of the housing requirement for an area identified in the local housing strategy and development plan should be based on the outcome of the housing need and demand assessment. Wider strategic economic, social and environmental policy objectives should also be taken into

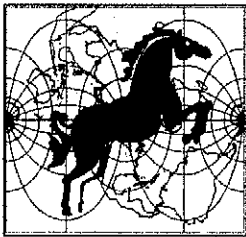
¹³ This policy does not override the provisions of Part 4 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008

RURAL DEVELOPMENT

92. The planning system has a significant role in supporting sustainable economic growth in rural areas. By taking a positive approach to new development, planning authorities can help to create the right conditions for rural businesses and communities to flourish. The aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.
93. The character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurised areas of countryside around towns and cities. The strategy for rural development set out in the development plan should respond to the specific circumstances in an area whilst reflecting the overarching aim of supporting diversification and growth of the rural economy. Development plans should promote economic activity and diversification in all small towns and rural areas, including development linked to tourism and farm diversification, whilst ensuring that the distinctiveness of rural areas, the service function of small towns and the natural and cultural heritage are protected and enhanced. **Developments which provide employment or community benefits should be encouraged, particularly where they involve the imaginative and sensitive re-use of previously used land and buildings.** Planning authorities should also support and promote opportunities for environmental enhancement and regeneration in rural areas, particularly areas of previous mining and industrial activity.
94. **The requirement for development plans to allocate a generous supply of land to meet housing requirements, including for affordable housing, applies equally to rural and urban areas.** Development plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding. Opportunities to replace rundown housing and steadings, and to provide limited new housing along with converted rehabilitated buildings, should be supported where the new development is designed to fit in the landscape setting and will result a cohesive grouping. Modernisation and steadying conversion should not be constrained within the original footprint or height limit unless there are compelling design or conservation reasons for doing so.
95. The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses. In more accessible and densely populated rural areas most new development should be in or adjacent to settlements. In less populated areas, small scale housing and other development which supports diversification and other opportunities for sustainable economic growth whilst respecting and protecting the natural and cultural heritage should be supported in a range of locations. In these areas, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards, particularly in relation to energy efficiency. Planning authorities should apply proportionate standards to access roads to enable small developments to remain viable.
96. It is essential that rural communities have reasonable access to good quality services. Major facilities are usually concentrated in larger settlements, and wherever possible they should be accessible by a range of transport modes including public transport. However, planning authorities should be realistic about the availability or likely availability of alternatives to access by car as not all locations, particularly in remoter areas, can be served by public transport.

Planning Review
Application CL/10/0175
Silvermuir Road, Ravenstruther

PRODUCTION 4



Gainford Limited
Planning Consultants
15 Silverdale Crescent
Lanark
Lanarkshire, ML11 9HW

26 March 2010

Mr Tony Finn
Area Manager
Planning and Building Standards
Council Offices
South Vennel
Lanark
ML11 7JT

For the attention of Dr Jerry Gigya

Dear Tony

**Planning Application:
Silvermuir Road, Ravenstruther**

Thank you for your letter of 22 March 2010.

I enclose for your attention 6 copies of a revised block plan showing the proposed access point and visibility splay showing visibility of 58 metres to the left and 125 metres to the right all as measured from a point 2.5 metres from the edge of the public road.

You will be aware that a speed check was undertaken in connection with Application CL/08/0207 which showed that sightlines of 2.5 metres by 35.00 metres were acceptable at the junction of Nisbet Way served by the same section of public road.

If you require any other information, please do not hesitate to contact me.

Yours sincerely

Neil Gainford MRTPI

Planning Review
Application CL/10/0175
Silvermuir Road, Ravenstruther

PRODUCTION 5: LETTER DATED 7 JUNE 2010 FROM MARY McLELLAN

Cleghorn
Hagholm Road
Cleghorn
LANARK ML11 7SG
07 June 2010

*Executive Director
Corporate Resources
Council Headquarters
Almada Street
HAMILTON M3 0AA*

Dear Sir/Madam

Planning Application No. CL/10/0175

I recently received notification of the outcome of the above application for the erection of a dwelling house on land at Silvermuir Road and would like to comment as follows :

After receiving neighbour notification of this application I checked it out on your website and took the opportunity to make some comments. I am really concerned to note that my comments have been taken as an objection when in fact I went to great pains to state that I was not objecting to the proposed development, however I did have some concerns regarding the use of the road between the traffic lights at Cleghorn Bridge and the proposed site. Please read item 3 of the Delegated Report.

Item 3.1 a) describes me as an objector – which I am most certainly not. I merely have a concern about the potential for HGV's to use this road – since they will be unable to get through the railway bridge.

The "Response" suggests that I have suggested a restriction on this road – which I did not as the low bridge is already there and is in itself a restriction.

Item 3.1 b) is correct in that I did suggest that access of HGV's should be from Ravenstruther – which is the only way they could gain access to the site.


The "Response" is completely nonsensical. There was no request to impose this restriction – the bridge is there – the HGV's cannot get through. Yes it is a public road, but it is physically impossible for a vehicle over 9'9" to get underneath the bridge ! We have already had this bridge almost demolished due to a large vehicle trying to force it's way through – it just doesn't work - and the public road was closed for several weeks !

What concerns me is

- a) that, despite my comments that I did not object to the development, I have been listed as an objector*
- b) there is some perceived notion that I have asked for a restriction to be placed on this road, which is certainly not the case.*

Perhaps it would have been worthwhile for your Planning Officer to come and take a look at the "public road". I am not happy with his or her interpretation of my comments.

Yours faithfully


Mary M McLellan
Cc Mr J Giggia, SLC: Gainford Limited

Delegated Report

Report to: **Delegated Decision**
Date of Report: **28 May 2010**
Report by: **Area Manager (Planning & Building Control)**

Application No CL/10/0175
Planning Proposal: Erection of dwellinghouse (Planning permission in principle)

1 Summary Application Information

- Application Type : Permission in principle
- Applicant : Mrs Alison J McRae
- Location : Land at Silvermuir Road
Ravenstruther
ML11 7SF

2 Decision

2.1 Refuse Planning Permission in Principle (for reasons stated)

2.2 Other Actions/Notes

None

3 Other Information

- ◆ Applicant's Agent: Gainford Limited
- ◆ Council Area/Ward: 03 Clydesdale East
- ◆ Policy Reference(s): **Glasgow and The Clyde Valley Joint Structure Plan 2006 (Operative – April 2008)**
Policy STRAT 1: Strategic Development Locations
South Lanarkshire Local Plan (Adopted)
Policy STRAT 4: Accessible Rural Area
Policy CRE 1: Housing in the Countryside
Policy ENV 29: Regional scenic Area
Policy **ENV 34**: Development in the Countryside

- ◆ **Representation(s):**
 - ▶ 1 Objection Letters
 - ▶ 0 Support Letters
 - ▶ 0 Comments Letters
- ◆ **Consultation(s):**

Scottish Water

Roads and Transportation Services (Clydesdale Area)

Planning Application Delegated Report

1 Material Considerations

- 1.1 Planning Permission in Principle is sought for the erection of a dwellinghouse on a plot of land at Silvermuir Road, **outwith** Ravenstruther's settlement boundary. An indicative plan has been submitted with the application showing the position of the proposed dwellinghouse. The application site extends to 0.6882 hectares and is bounded to the north by public road, to the south east by open farmland and to the west by The Lanark – Glasgow railway line. The site is physically detached from existing properties situated at the opposite side of the public road which defines its northern edge and sits at a significantly higher ground level. Access to the application site is to be taken off a public road.
- 1.2 The main issues in determining the application are whether the proposal complies with the development Plans policies, whether development of the site can integrate successfully with its surroundings, its impact on the character and appearance of the environment in which it is located, whether the site can be safely accessed and the ability of the site to accommodate the proposed development.
- 1.3 The South Lanarkshire Local Plan (Adopted) identifies the area as being within the Accessible Rural Area where Policy STRAT 4 applies. This Policy states that the Local Plan strategy will be to support sustainable communities within the area through measures that tackle exclusion and isolation and redress imbalances of economy and housing type provision, particularly where this involves renewal proposals. The priority will be to encourage developments within established settlement boundaries, but **outwith** these, new build development is directed to existing building groups and gap sites that consolidate such groupings. Isolated and sporadic development will generally not be supported. Any housing development within the Access Rural Area should conform to policy CRE 1 - Housing in the Countryside.
- 1.4 Policy CRE 1 – Housing in the Countryside states that in the countryside, new houses will not normally be permitted. For new individual houses in the countryside there are a number of specific circumstances where a house may be acceptable. These circumstances are summarized as follows:
- Part 1 – Agricultural Dwellings;
 - Part 2 – Proposed dwelling with proposed associated business or enterprise;
 - Part 3 – Existing business or enterprise with proposed associated dwelling;
 - Part 4 – Reuse or Conversion of an existing Building for Housing and;
 - Part 5 – Replacement Housing.

Where development is justified, it will be assessed against criteria on design, scale, impact on the rural character and access.

- 1.5 Policy ENV 29 – Regional Scenic Area states that within the Regional Scenic Area, development will only be permitted if it satisfies the requirements of STRAT 4 and can be accommodated without adversely affecting the overall quality of the designated landscape area.

Policy ENV 34 - Development in the Countryside states that proposed developments in the rural area will be **permitted** where it complies with policies STRAT 3 – 6 and it can be demonstrated to the Council's satisfaction that the development meets the criteria set in the policy. In assessing new housing developments, the Council will seek well designed proposals which integrate successfully with their surroundings and which are well related to existing development.

2 Consultation(s)

- 2.1 **Scottish Water**: have no objections to the proposal but have advised that there are no public sewers in the vicinity of the proposed development. Daer water Treatment Works currently has capacity to service this proposed development.

Response: Noted.

- 2.2 **Roads and Transportation Services**: Advise that the sightlines that can be achieved at the proposed access point are inadequate and therefore the proposal would result in adverse road safety conditions. They do consider that the relocation of the access point some 30-40m to the east would allow adequate visibility to be created. .

Response: It is not known whether the land over which the sightline would extend if the access point were moved is in the applicants control. Given the clear policy objections to the proposal this issue has not been taken up with the applicant, however it may be that a solution may be available. However based on the submitted drawings I have concerns that the proposal will adversely affect road safety in the area.

3 Representation(s)

- 3.1 The application was advertised as Development Contrary to the Development Plan. Following this publicity and notification of adjoining neighbouring property owners one letter of objection has been received. The grounds of objections are summarized below:

- a) **The objector is concerned that the current use of the road between the traffic lights at Cleghorn Bridge and Ravenstruther by heavy goods**

vehicles has resulted in the garden, drive and fence line being damaged on several occasions.

Response: The section of the road that runs between Cleghorn Bridge and Ravenstruther is a public road therefore there is no requirement to restrict the use of the road to certain types of vehicles.

- b) The objector suggests that access to the application site should be from Ravenstruther direction only.**

Response: The imposition of such a requirement would be unreasonable and unenforceable given that this is a public road.

4 Assessment and Conclusions

- 4.1 The applicant seeks planning permission in principle for a dwellinghouse on land at Silvermuir Road, Ravenstruther. The main issues in determining the application are whether the proposal complies with development plan policy and its impact on the amenity of the rural area, the ability of the site to accommodate a dwellinghouse together with sufficient garden ground/car parking and the provision of safe access.
- 4.2 The proposed development site lies within the wider countryside where Policy STRAT 1: Strategic Development Locations of the Glasgow and The Clyde Valley Joint Structure Plan applies. The policy states that there is a general presumption against isolated and sporadic development in the wider countryside. The proposal would constitute isolated and sporadic development in the wider countryside and would therefore not comply with the above Structure Plan policy.
- 4.3 The adopted South Lanarkshire Local Plan identifies the site as being within the Accessible Rural Area where Policy STRAT 4 applies. This policy specifically states that development will be directed to within settlements. It advises that outwith settlement boundaries new build development should be directed to existing building groupings and gap sites that consolidate such groupings and that isolated and sporadic development will generally not be supported. The Policy also states that consideration may be given to new building development where this forms part of a larger proposal for the rehabilitation or change of use of disused or redundant traditional buildings where this consolidates such groups. The Policy further advises that any housing development should conform to Policy CRE 1: Housing in the Countryside. The CRE 1 criteria set the basis which allows for new house build in the countryside. I consider that the proposal does not comply with Policy STRAT 4 or Policy CRE 1. The proposal is located outwith a settlement boundary, physically detached from properties located to the north of the site and does not constitute a gap site neither does it consolidate an existing building group. Furthermore, I also consider that the proposal does not meet any of the relevant criteria listed in Policy CRE 1. The proposal would also constitute isolated and sporadic development at this location to the detriment of the character and amenity of the surroundings, particularly landscape and rural amenity. The applicant has not

offered any locational and economic justification for a dwellinghouse at this location.

- 4.4 In terms of Policy ENV 29, development within the Regional Scenic Area will only be permitted if it satisfies the requirements of STRAT 4 and can be accommodated without adversely affecting the overall quality of the designated landscape area. I have concerns that the development of this site would have an adverse visual impact of on the character and amenity of the area given that it sits in a prominent and elevated location. This would have a detrimental impact on the visual amenity of the area.
- 4.5 In terms of Policy ENV 34, development in the rural area will be permitted where it complies with Policy STRAT 4 and it can be demonstrated to the Council's satisfaction that the development meets the criteria set in the policy. I am concerned that the proposed development would not integrate successfully with its surroundings and would not be well related to any existing built development given the isolated location of the application site on the southern side of Silvermuir Road.
- 4.6 The proposed vehicular access to the application site is not of adequate standard and will have adverse implications for traffic and public safety due to the sightlines that are available at the access point shown on the submitted drawings. Roads consider the relocation of the access would achieve adequate visibility however this matter has not been pursued due to the outstanding policy issues. As a result the access as proposed would have an adverse impact on road safety.
- 4.7 In view of the above I consider that the proposal fails to comply with the policies of the development plans and would constitute an inappropriate form of development for the site. If consent was granted for this proposal it would set an undesirable precedent for future applications which would further erode the character of the area. I therefore consider that planning permission should be refused.

5 Reason for Decision

- 5.1 The proposal would have an adverse impact on the character and visual amenity of the surrounding rural area and on road safety. It does not comply with Policy STRAT 1 of the Glasgow and The Clyde Valley Joint Structure Plan nor Policies STRAT 4, CRE1, ENV 29 and ENV 34 of the South Lanarkshire Local Plan (Adopted).

Signed:
(Council's authorised officer)

Date:

Previous References

- ◆ None

List of Background Papers

Application Form
Application Plans

Consultations

Scottish Water

04/05/2010

Roads and Transportation Services

26/05/2010

Representations

Representation from : Mrs Mary M McLellan, Ledaig
Hagholm Road
Cleghorn
ML11 7SG, DATED 28/04/2010

Contact for Further Information

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

Jerry Gigya

