

Report to: **Planning Committee**
 Date of Meeting: **20 September 2011**
 Report by: **Executive Director (Enterprise Resources)**

Application No HM/11/0153
 Planning Proposal: **Erection of 5 Detached Dwellings (Planning Permission in Principle)**

1 Summary Application Information

- Application Type : Permission in Principle
- Applicant : Alexander C D Murray
- Location : Land off Avonbank Road
Larkhall

2 Recommendation(s)

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

- (1) Grant Planning Permission in Principle - Subject to Conditions (Based on the Conditions Attached)

2.2 Other Actions/Notes

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

3 Other Information

- ◆ Applicant's Agent: None
- ◆ Council Area/Ward: 20 Larkhall
- ◆ Policy Reference(s): **South Lanarkshire Local Plan**
Policy RES6 - Residential Land Use Policy
Policy DM 1 – Development Management
Policy ENV 31 – New Housing Development

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

◆ Consultation(s):

Environmental Services

Roads and Transportation Services (Hamilton Area)

Roads & Transportation Services H.Q. (Flooding)

Scottish Water

Larkhall Community Council

The Coal Authority

Planning Application Report

1 Application Site

- 1.1 The application site is located on the north-west edge of Larkhall, adjacent to the Glengowan area. It is approximately 0.48 hectares in size and is relatively square in shape. It is bounded by mature trees to the north and west and by the Avon Water beyond. The southern boundary is enclosed by hedging and bounded by Avonbank House and by Nos. 1-3 Avonbank Road. The eastern boundary is open in nature.
- 1.2 The site was formerly used as a raspberry field but is now overgrown.

2 Proposal(s)

- 2.1 The applicant seeks planning permission in principle for the development of the site for residential use. The applicant has submitted a plot and road layout which indicates that the site would be developed for five detached dwellings.
- 2.2 The site is accessed via Avonbank Road, a private road which is taken off Millheugh Brae. Avonbank Road is single track and poorly maintained. This road becomes a farm track beyond 1-3 Avonbank Road and access to the site would be taken from this point.

3 Background

3.1 Local Plan Status

- 3.1.1 In terms of the South Lanarkshire Local Plan the site is identified as being within a Residential Area (as defined by Policy RES6). Policy RES6 states that the Council will resist any development which will be detrimental to the amenity of those areas.

3.2 Relevant Government Advice/Policy

- 3.2.1 None relevant given the scale of the development

3.3 Planning Background

- 3.3.1 An outline planning application for residential development, reference HM/04/0195 was submitted on 29 March 2004 but withdrawn prior to any decision being made.

4 Consultation(s)

- 4.1 Roads & Transportation Services – have commented that access to the site is less than ideal however they have no objections to the proposal in principle subject to the applicant providing at detailed application stage a package to improve Avonbank Road, primarily in terms of its general condition (resurfacing required as a minimum) but also in terms of its geometry to aid manoeuvrability. The applicant is expected to incorporate a turning facility at the lower end (at the spur off to Avonbank) and maximise the available road width to facilitate passing vehicles. A traffic management plan and details of proposed wheel cleaning during construction would also be required. In addition a dilapidation survey of the existing road, street furniture, boundary walls/fences/hedges should be carried out by the applicant in advance of any site clearance/demolition/construction work.

Response: The main requirements can be addressed through the use of planning conditions, where appropriate. It is noted however that Avonbank Road is a private road and is not legally controlled by the applicant although it is understood that they do have a right of access over the route.

4.2 **Environmental Services** - no objection to the proposed development subject to the imposition of standard informatives relating to noise.

Response: This requirement can be addressed through the use of informatives, where appropriate.

4.3 **Roads & Transportation Services (Flooding)** – no objection to the proposed development subject to design criteria relating to Sustainable Urban Drainage Systems and Flood Risk being satisfied through the completion of self certification documentation.

Response: An appropriate SUDs condition and flood risk assessment condition will be imposed should planning consent be granted.

4.4 **Scottish Water** - has offered no objection to the proposal and has confirmed that Camps Water Treatment Works currently has capacity to service the proposed development. However, Skellyton Waste Water Treatment Works has limited capacity to serve this development therefore the developer should discuss the development directly with Scottish Water. In addition the principal of SUDS is supported.

Response: An informative would be attached to any consent granted advising the applicant to make contact with Scottish Water as requested.

4.5 **The Coal Authority** – commented that the application site does not fall within the defined coal mining referral area however if the proposal is granted planning permission a standard informative relating to public health and safety should be attached.

Response: This requirement can be addressed through the use of an informative.

4.6 **Larkhall Community Council** - object to the proposed development on the ground that there is no safe vehicular access. It is their contention that the area should never have been removed from Greenbelt through the local plan process and that a new road matrix should be produced and published to enable both the developer and the objectors to revisit their arguments. Furthermore in the early eighties there was a series landslip which caused damage to Watson Street and a fault line was identified. The remedial works which were necessary were done from this development site. In addition they consider that the Scottish Water consultation response is misleading because they have been directly advised that there is no capacity available at Skellyton Wastewater Treatment Works to provide connections for this development or any development in the Millheugh Area. The applicant has stated that they will connect to the existing system which would not be possible because there is no supply.

Response: The issue of access to the site will be considered in detail in the Assessment and Conclusions section of the report. The contention that the area should not have been removed from the Greenbelt was previously addressed in the preparation of the existing local plan. The fact is that the site now identified as being within the Larkhall settlement in terms of the adopted local plan and this does not require to be revisited.

With regards to the stability of the site, the Coal Authority have recommended that if the proposal is granted planning permission a standard informative, relating to public health and safety, should be attached as detailed above in paragraph 4.5.

The issue of the proposed development connecting to the existing wastewater works is a matter to be resolved between the applicant and Scottish Water. In addition an informative would be attached to any consent granted advising the applicant to make contact with Scottish Water as requested.

5 Representation(s)

5.1 Statutory neighbour notification was undertaken and the proposed development was advertised due to the non notification of neighbours and owners. As a result of this publicity seventeen letters of objection have been received.

5.2 The grounds of objection are summarised and responded to as follows:

(a) **Avonbank is a single lane private road with poor surface conditions and no passing places or available ground necessary to introduce them. It is not capable of accommodating the access that the developer requires to service the development, nor is there space for a pedestrian footpath. Indeed it is unlikely to fulfill the criteria of the roads department. There is inadequate turning space at end of road. The additional traffic that would use Avonbank Road would be detrimental to the residential amenity of the adjoining properties. Avonbank is a bad junction on Millheugh Brae for traffic coming in and out of and is susceptible to flooding and icing in winter. Parts of the solum of Avonbank Road are in the ownership of various parties. Neighbouring proprietors have no interest in facilitating a wider access, nor in providing land to accommodate re-alignment or road construction works. It would be incompetent for the planning authority to grant permission over land without the consent of the landowner, and over which the applicant has no control.**

Response: As detailed above in paragraph 4.1, Roads and Transportation Services have commented that access to the site is less than ideal however they have no objections to the proposal in principal subject to the applicant providing at detailed application stage a package to improve Avonbank Road, primarily in terms of its general condition (resurfacing required as a minimum) but also in terms of its geometry to aid manoeuvrability. Improvement works would be necessary to bring the road up to an agreed standard and the stability of the adjoining boundary wall would be required to meet the standards of the Council's Roads Authority. The applicant would therefore need to obtain permission from the other owners of the road and those properties who have a legal responsibility to the maintenance of the adjoining boundary wall to carry out any improvement works to the road or wall.

(b) **Much of the west side of Avonbank Road is supported by a retaining wall forming the eastern boundaries of the gardens in Clove Mill Wynd, which lie at a level below the access road. Improvement works on the road and use by construction traffic and then permanently for residential traffic, in such close proximity to the cottages will not only be seriously detrimental to the structure and amenity of the cottages, it will also present a serious hazard to occupants of the houses. It could potentially affect the stability of the retaining wall and threaten the safety and**

amenity of the adjoining properties. In 1991 there was a major structural failure of the wall and part of the road.

Response: The potential damage to private property as a result of construction traffic and its resulting implications is a civil issue and does not constitute a material planning consideration in the assessment of this planning application. The Roads and Transportation Service have however asked for a dilapidation survey to be carried out by the applicants of the existing road, street furniture, and boundary walls/fences/hedges in advance of any site clearance/demolition/construction work. This will establish if there are any issues that need to be addressed by the applicant in advance of any work starting on the site.

- (c) **Existing properties on Avonbank Road enjoy a quiet and peaceful environment. The proposed development of five detached dwellings would have a serious impact on noise and pollution from additional traffic affecting existing residents.**

Response: Noted. Environmental Services have no objections to the proposal as discussed above in paragraph 2.2. They do however have powers within their legislation to restrict construction noise if nuisance occurs.

- (d) **Proposal will have an adverse impact on existing wildlife namely deer, foxes, badgers, together with various birds including woodpeckers, finches and hawks. There is also an active colony of bees less than 4 metres from the line of the proposed site which have been there for at least 20 years and should not require to be moved to accommodate this development.**

Response: This is an application for planning permission in principle only and these matters would be considered during the processing of any detailed planning application.

- (e) **Neighbouring proprietors house frontage would be used as a passing place which is totally unacceptable and concerns over health and safety because existing front doors open directly off proposed access road.**

Response: Whilst the objector's concerns are noted these reasons are not considered to be sufficient to justify refusal of this application. The use of any areas of land out with the control of the applicant is a legal matter.

- (f) **Depreciation in value of existing neighbouring houses.**

Response: This does not constitute a material planning consideration in the assessment of planning applications.

- (g) **Various properties were not served with the appropriate neighbour notification.**

Response: Neighbour notification and ownership notification procedures, both of which included related press adverts have been carried out in accordance with the statutory requirements.

- (h) **Proposal will have an adverse impact on the amenity on both Fairholm and Avonbank House (which are both listed) and their corresponding grounds.**

Response: This is a planning application in principle to establish the principle of using the site for residential purposes. The site is already designated as being within a residential area in the adopted local plan and any impact on listed buildings would be considered during the processing of any detailed

planning application when full details of the development, including the mass and scale of the houses, would be known.

- (i) **The objectors are unaware of the proposals by the developer for drainage and sewerage from the site and if permission is granted for this development, provision of routes for drainage, sewerage and other services will have implications for other areas of land.**

Response: This is a planning application in principle to establish if the principle of using the site for residential purposes is acceptable. If acceptable these issues would be considered as part of the proposal at the detailed planning application stage.

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

6 Assessment and Conclusions

- 6.1 The determining issues that require to be addressed in respect of this application are its compliance with local plan policy, including any impact on the surrounding residential environment, and access issues.
- 6.2 In terms of local plan policy, the application site is located within a residential area designated by Policy RES6 of the South Lanarkshire Local Plan. In this respect, it is considered that the principle of residential development is acceptable.
- 6.3 In terms of the detail of the proposal, Policy DM1 of the South Lanarkshire Local Plan states that all planning applications should take fully into account the local context and built form – i.e. development should not take place in isolation and must take cognizance of scale, position and materials of adjacent buildings and surrounding streetscape. This application however is for permission in principle and whilst an indicative layout has been submitted, no other details of the proposal have been received. The assessment of any development on this site in terms of Policy DM1 will take place at the detailed planning application stage. However in terms of specifics of this site it is considered necessary to restrict the height of any houses to a maximum of 2 storey. This restriction is subject to the development achieving all standards with reference to those contained within the Council's Residential Development Guide. Issues relating to the positioning of houses, finishing materials used, privacy and garden size would be assessed in any detailed planning application submitted. Policy ENV31 – New Housing Development would also be assessed in any detailed planning application. Conditions can be used to ensure that any detailed application complies with the terms of the Council's Residential Development Guide.
- 6.4 In relation to access and related matters a number of objections have been received. As detailed above in paragraph 4.1, Roads and Transportation Services have commented that the access to the site is less than ideal however they have no objections to the proposal in principle subject to the applicant providing at detailed application stage a package to improve Avonbank Road, primarily in terms of its general condition (resurfacing required as a minimum) but also in terms of its geometry to aid manoeuvrability. This along with the other main requirements can be addressed through the use of planning conditions. One of the objection letters comments that the location plan submitted by the applicant shows the track as being wider than indicated by title. This is a legal issue and the applicant would need to obtain permission from the other owners of the road to carry out any improvement works.

- 6.5 Whilst none of the consultees raised any issues that cannot be addressed through the use of planning conditions or informatives attached to any planning consent, seventeen letters of objection have been received. The grounds of objection have been considered in detail in Section 5 of the report and it is considered that the issues raised can either be dealt with by planning conditions/informatives or would not merit refusal of this planning application in principal.
- 6.6 Given the above, it is recommended that planning permission be granted subject to the attached conditions.

7 Reasons for Decision

- 7.1 The proposal has no adverse impact on either residential or visual amenity and complies with Policies RES6, ENV31 and DM1 of the South Lanarkshire Local Plan.

Colin McDowall
Executive Director (Enterprise Resources)

30 August 2011

Previous References

- ◆ HM/04/0195

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Plan
- ▶ Scottish Planning Policy
- ▶ Neighbour notification letters, dated 11 April and 11 May 2011
- ▶ Press adverts, dated 21 April and 18 August 2011

▶ Consultations

Scottish Water	14/04/2011
Larkhall Community Council	06/05/2011
Environmental Services	05/05/2011
Roads and Transportation Services (Hamilton Area)	15/06/2011
Roads & Transportation Services H.Q. (Flooding)	20/06/2011
The Coal Authority	27/04/2011

▶ Representations

Representation from : Strefford Tulips Solicitors, Muirbrow Chambers, 118 Cadzow Street, Hamilton, ML3 6HP, DATED 27/04/2011

Representation from : Jim Peat, 6 Avonbank Road, Larkhall, ML9 1QS, DATED 28/04/2011

- Representation from : J.C. Stevenson-Hamilton, Fairholm House,Larkhall,Lanarkshire,ML9, DATED 20/04/2011
- Representation from : J C Stevenson-Hamilton, Fairholm and Kirkton Estates,Fairholm,Larkhall,ML9 2UQ, DATED 20/04/2011
- Representation from : William Wallace, 1 Avonbank Cottages,Avonbank Road,Larkhall,ML9 1QS, DATED 26/04/2011
- Representation from : Paul Russell, 3 Avonbank Cottages,Avonbank Road,Larkhall,ML9 1QS, DATED 26/04/2011
- Representation from : Mr and Mrs Joe Marshall, 2 Avonbank Road,Larkhall,ML9 1QS, DATED 03/05/2011
- Representation from : John Jackson and Dick, 48 Cadzow Street,Hamilton,ML3 6DT, DATED 03/05/2011
- Representation from : Colin Harden, 44 Clove Mill Wynd,Millheugh,Larkhall,ML9 1NT, DATED 17/05/2011
- Representation from : Strefford Tulips Solicitors, Muirbrow Chambers,118 Cadzow Street,Hamilton,ML3 6HP, DATED 28/04/2011
- Representation from : Stefford Tulips Solicitors, Muirbrow Chambers,118 Cadzow Street,Hamilton,ML3 6HP, DATED 28/04/2011
- Representation from : John Lyons, 42 Clove Mill Wynd,Larkhall,ML9 1NT, DATED 23/05/2011
- Representation from : Nikki Miller, 46 Clove Mill Wynd,Larkhall,ML9 1NT, DATED 29/05/2011
- Representation from : Mr and Mrs Joseph Marshall, 2 Avonbank Road,Millheugh,Larkhall,ML9 1QS, DATED 01/06/2011
- Representation from : J Preston, 50 Clove Mill Wynd,Larkhall,ML9 1NT, DATED 26/05/2011
- Representation from : John Jackson and Dick, 48 Cadzow Street,Hamilton,ML3 6DT, DATED 15/08/2011
- Representation from : John Jackson and Dick, 48 Cadzow Street,Hamilton,ML3 6DT, DATED 17/08/2011

Contact for Further Information

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

Murray Reid, Planning Officer, Montrose House, Hamilton
Ext 3625 (Tel :01698 453625)
E-mail: planning@southlanarkshire.gov.uk

Permission in principle

PAPER APART – APPLICATION NUMBER : HM/11/0153

CONDITIONS

- 1 This decision relates to drawing number:
001
- 2 Prior to the commencement of development on site, a further application(s) for the approval of the matters specified in this condition must be submitted to and approved by the Council as Planning Authority. These matters are as follows:
 - (a) the layout of the site, including all roads, footways, parking areas and open spaces;
 - (b) the siting, design and external appearance of all building(s) and any other structures, including plans and elevations showing their dimensions and type and colour of external materials;
 - (c) detailed cross-sections of existing and proposed ground levels, details of underbuilding and finished floor levels in relation to a fixed datum, preferably ordnance datum.
 - (d) the means of access to the site;
 - (e) the design and location of all boundary treatments including walls and fences;
 - (f) the landscaping proposals for the site, including details of existing trees and other planting to be retained together with proposals for new planting specifying number, size and species of all trees and shrubs;
 - (g) the means of drainage and sewage disposal including connection details to existing services.
 - (h) details of the phasing of development (covering all relevant aspects of development detailed in (a) above);
- 3 That no building to be erected on the site shall exceed 2 storey(s) in height.
- 4 That the reserved matters application required under the terms of condition (2) above shall comply with the requirements of the Councils approved Residential Development Guide.
- 5 That no consent is hereby granted for the indicative plot layout, driveways or dwellinghouses shown on the approved plan.
- 6 That no trees within the application site shall be lopped, topped, pollarded or felled, and no shrubs or hedges shall be removed from the application site without the prior written consent of the Council as Planning Authority.
- 7 That the further application required under the terms of Condition 2 above, shall be accompanied by a Design Statement which shall set out the design principles, justify the design solution and show how the proposal responds to the wider context of the area as well as the characteristics of the site.
- 8 That the further application required under the terms of Condition 2 above, shall be accompanied by a dilapidation survey of the existing road, street furniture, boundary walls/fences/hedges and should be carried out by the applicant in advance of any site clearance/demolition/construction work.

- 9 That the further application required under the terms of Condition 2 above, shall be accompanied by a traffic management plan and details of proposed wheel cleaning regime.
- 10 That the further application required under the terms of Condition 2 above, shall be accompanied by a package of proposals to improve Avonbank Road primarily in terms of its general condition but also in terms of its geometry to aid manoeuvrability.
- 11 That the further application required under the terms of Condition 2 above, shall be accompanied by a Flood Risk Assessment with reference made to CIRIA C624 and in accordance with the Reporting Requirements for Flood Risk Assessments issued by the Scottish Environmental Protection Agency (SEPA) shall be submitted to, and approved in writing by the Council as Planning and Roads Authority.
- 12 That the further application required under the terms of Condition 2 above, shall be accompanied by a Drainage Impact Assessment (If not included as part of the Flood Risk Assessment) in accordance with the principles of sustainable drainage and CIRIA C697: The SUDS Manual shall be submitted to, and approved in writing by the Council as Planning and Roads Authority.

REASONS

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 3 In the interests of amenity.
- 4 In the interests of amenity.
- 5 Consent is granted in principle only and no consent is granted for the indicative details submitted.
- 6 To ensure the protection and maintenance of the existing trees and other landscape features within the site.
- 7 To provide an explanation of the design concept and to enable a greater understanding of the proposal.
- 8 In the interests of road safety.
- 9 In the interests of road safety.
- 10 In the interests of road safety.
- 11 To ensure that there will be no increased risk of flooding to land and properties either on-site or downstream due to impedance of flood flows, increased surface water run off and/or reduction of flood storage capacity.
- 12 To demonstrate that a satisfactory means of waste and surface water drainage can be achieved.

For information only

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