



Report to: Date of Meeting:	Planning Committee
Ŭ	23 February 2021
Report by:	Executive Director (Community and Enterprise
	Resources)

Application no.	P/20/1006
Planning proposal:	Change of use of agricultural land (sui generis) to form an outdoor
	children's nursery (Class 10) and associated access and parking

#### **1** Summary application information

Application type: Detailed planning application

Applicant: Location: Mr John Hendrie Land 100 metres north of 1 Blueknowes Road Blueknowes Road Law Carluke South Lanarkshire

## 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 attached

## 2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application.
- (2) A corresponding planning application for this same site and proposal has been submitted under reference P/20/1728 Siting of temporary accommodation associated with outdoor children's nursery.(temporary consent) which is also presented for determination to this Planning Committee.

#### 3 Other information

- Applicant's Agent: ٠
- Council Area/Ward:
- 01 Clydesdale West Policy Reference(s): **Proposed SLLDP2:** ٠

Policy 3 General Urban Areas Policy 5 Development Management and Placemaking

South Lanarkshire Local Development Plan: Policy 6 General urban area/settlements Policy 4 Development management and placemaking Supplementary Guidance 3: Development

Management, Placemaking and Design Policy DM13 Development within general urban area/settlement

#### Representation(s): ۲

•	19	Objection Letters
•	0	Support Letters
►	0	Comment Letters

#### Consultation(s): ۲

Countryside and Greenspace

Roads Development Management Team

**Environmental Services** 

Early Years Co-ordinator

Care Inspectorate

# Planning Application Report

## 1 Application Site

1.1 The application site relates to an open field sited to the rear of residential properties, 58 and 60 Blueknowes Road, accessed via Blueknowes Road. The application site includes part of a tree lined track on its western boundary known as Blueknowes Road. The other boundaries are marked by a post and wire fence and boundary trees or hedges. To the north and west of the application site lies open land designated as the Green Belt. To the east of the site lies open land situated within the settlement boundary of Law. To the south of the site lies 4 residential properties. The application site includes Blueknowes Road, a private road connecting the site to the public road, Brownlee Road.

# 2 Proposal(s)

- 2.1 The proposal is to change the use of agricultural land to form an outdoor children's nursery. Relevant plans have been submitted along with a supporting statement.
- 2.2 The applicants currently run a childminding business from their property located at 1 Blueknowes Road, sited to the west of the site. The proposal seeks to relocate that childminding business from their dwellinghouse to this field. The existing childminding business caters for up to 7 children. The proposed outdoor nursey will cater for up to 10 children. The supporting statement details that the outdoor nursey will be operated by the same people as the childminding business and there will be no increase in staffing. Therefore, the proposal is to relocate an existing childminding business from a residential property to an adjacent field. The proposal includes dedicated parking for 5 spaces and a turning area for users on Blueknowes Road (a private road). Shelter and toileting for the outdoor nursery will be provided via a portacabin which has been applied for separately under reference P/20/1728.

# 3 Background

## 3.1 Local Development Plan Status

- 3.1.1 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (SLLDP2) in which a number of modifications to the Plan were recommended. At the Planning Committee on 1 December 2020, members agreed to the approval of all of the modifications; the publication and public deposit of the Plan, as modified; and the submission of the Plan to Scottish Ministers.
- 3.1.2 For the purposes of determining planning applications the Council will, therefore, assess these against the policies contained within the adopted South Lanarkshire Local Development Plan (SLLDP) and those within the proposed SLLDP2. As the SLLDP2 is now approved for adoption, when considering planning applications, greater weight should be given to the policies and guidance contained in this Plan. If the relevant proposed SLLDP2 policy differs materially from those in the adopted SLLDP, this will be discussed within the assessment section of this report.
- 3.1.3 In land use terms, the application site is identified within the adopted SLLDP as a housing land supply site. However, following the 2019 housing land audit, the site is no longer identified as a housing land supply site in the proposed SLLDP2. Instead, the site is identified within the settlement boundary and designated as part of the general urban area of Law. As such, Policy 6 General Urban Area and Policy DM13 Development in the General Urban Area of the adopted SLLDP and Policy 3 General Urban Area of the proposed SLLDP2 apply. These policies seek to retain the character and amenity of the general urban area which is predominately residential.

3.1.4 Policy 4 (Development Management and Place Making) of the adopted SLLDP and corresponding Policy 5 (Development Management and Place Making) of the proposed SLLDP2 are also considered to be relevant. These policies require all development proposals to take account of, and be integrated with, the local context and built form and also consider access and parking arrangements.

# 3.2 Relevant Government Advice/Policy

- 3.2.1 Scottish Planning Policy (SPP) provides guidance on various topics including business and employment and valuing the natural environment. SPP encourages local authorities to ensure there are suitable sites to meet the diverse needs of different sectors and sizes of business and accommodate changing circumstances and realisation of new opportunities. Planning should also support opportunities to enjoy and learn about the natural environment. Planning should direct the right development to the right place, supporting development which is distinctive, safe and pleasant, welcoming, adaptable, resource efficient and easy to move around and beyond.
- 3.2.2 The Scottish Government policy statement on early education and care details a commitment to increasing outdoor play and learning. Scotland's Outdoor Play and Learning Coalition Position Statement details the various benefits of outdoor play, including improved physical health, mental, social and emotional wellbeing.

## 3.3 Planning Background

3.3.1 There is no previous planning application history on this site. A separate application, P/20/1728, has been submitted for a temporary portacabin on the same site in association with the outdoor nursery. This will be assessed separately.

## 4 Consultation(s)

4.1 <u>Environmental Services</u> - No objection subject to conditions relating to waste and an informative including notes on noise nuisance.

**<u>Response</u>**: Noted, appropriate conditions shall be imposed on any permission granted.

4.2 <u>Countryside and Greenspace</u> - Blueknowes Road is not designated as a Core Path, wider access network or Right of Way. However, the Land Reform (Scotland) Act advises non-motorised access rights do apply if members of the public wish to use the land.

**<u>Response</u>**: Noted, the use of this area for parking cars would not prevent those from walking or jogging on it.

4.3 **Roads and Transportation** - Initially requested further details on parking, which were duly received on 18 December 2020. Roads and Transportation have noted the existing access has already been used for the existing childcare facilities and have concluded that the expected increase in traffic would be minor and the connection between Blueknowes and Brownlee Road would remain sufficient. Roads have no objection to the proposal subject to details of surface finishes and the parking layout. Following further discussion, Roads and Transportation noted that the applicant was in ownership of Blueknowes Road and added a further condition in the form of a dilapidation survey being carried out prior to works commencing on site and, thereafter, any necessary repairs being undertaken.

**<u>Response</u>**: Noted, appropriate conditions shall be imposed on any permission granted.

- 4.4 <u>Care Inspectorate -</u> No response received <u>Response</u>: Noted
- 4.5 <u>Early Years Co-ordinator</u> No response received. <u>Response</u>: Noted

### 5 Representation(s)

- 5.1 Statutory neighbour notification was undertaken and the proposal was advertised in the local press for non-notification of neighbours. A total of 19 representations have been received. The content of which is summarised and responded to below.
  - a) Various concerns relating to road safety, including the exit from Blueknowes Road on to the blind crest of Brownlees Road. It is noted that visibility is less than shown on plans and speed of cars on this road. Blueknowes Road is impassable in adverse winter weather which would result in drop offs on a blind crest. Recent photographs have been provided showing recent snowfalls on adjacent Brownlee Road which prevented vehicles from reaching past Blueknowes Road junction.

**Response:** Roads and Transportation have been consulted on the application and have raised no road safety concerns on the basis that Blueknowes Road has been used for the use of childminding already. Nevertheless, Roads and Transportation have requested improvements to ensure the access and parking is sufficiently desirable to users to avoid users parking elsewhere or on the public road. It is the responsibility of the operator of the nursery to ensure the private access (Blueknowes Road) is suitable for users, including during adverse weather. It is the Council's responsibility to treat and deal with surfaces of public roads (such as Brownwlee Road) during adverse weather. However, there are occasions when, due to weather events, it is not possible to keep every road functioning. This, however, would not be a reason to refuse planning permission on the circumstances that a road may be closed in adverse weather.

b) The gravel road is unsuitable for this increase in traffic volumes, there is no surface water drainage and it has already deteriorated due to the childminding use. It has also been gueried whether the private road would be upgraded to a tarmac road surface; Roads and Transportation Services response does not make any obligation for the applicant to bring the road up to an appropriate standard. Photographs were also provided showing the current surfacing of the access. **Response:** Blueknowes Road is a private road which has a gravel surface up to 1 Blueknowes Road, beyond which the area is grassed and this includes the proposed parking area. The photographs submitted by the representation and the site visit do identify the presence of some potholes on the gravel road. The scale of development is such that it would not be reasonable or fair for the Council to condition that Blueknowes Road is brought up to an 'adoptable standard'. Nevertheless, Roads and Transportation have requested improvements to the parking area and the area outlined in brown, on Drawing No. 8 which is currently grassed and connects the parking area to the rest of Blueknowes Road. This is to ensure the access and parking is sufficiently desirable to users to avoid parking elsewhere or on the public road. These improvements include a gravel/hardcore finish across the parking area and the connection to Blueknowes Road. On receipt of information that the applicant owns Blueknowes Road, they have requested a dilapidation survey to assess the current condition of the road prior to any works starting on site

and requesting appropriate repair, if deemed required. The exact specification requires to be agreed prior to works beginning on site. Nevertheless, the specification and maintenance of a private road remains a private legal matter for the parties involved.

- c) Insufficient width for turning of vehicles, associated damage to verges has already occurred and will be exacerbated. <u>Response:</u> The submitted plans detail a parking layout with sufficient width behind parking spaces to allow for turning. The turning arrangement is different to that currently used by the childminding business.
- Blueknowes Road is still in ownership of Mauldslie Estate and not owned by the applicant.
  <u>Response:</u> The applicant has detailed on the land ownership certificate, part

of the application form, they are in ownership of the site. The planning assessment considers the use of the land, irrelevant of ownership.

e) Concerns relating to noise disturbance, to elderly residents between hours of 7am and 7pm.

**Response:** It is appreciated that the neighbouring residents may experience an increase in noise from children in the field. However, the total number of children is limited, there will be times the children will use the shelter and the total area of the field usable for the nursey is sizable. Environmental Services have raised no issues with the proposal generating a noise nuisance. However, all businesses have a duty of care to avoid creating a noise nuisance. Therefore, if a noise nuisance is experienced, residents can raise a noise complaint with Environmental Services.

- f) The proposal would result in the closing of Blueknowes Road as an access route for walking. <u>Response:</u> During the site visit it appeared Blueknowes Road was blocked off by fencing, although walkers may choose to climb this. The proposal would use part of the track as a parking area but this would remove the existing fencing and would not prevent the use of Blueknowes Road for walking or jogging.
- g) Query whether the proposal is a childminding setting in a non-domestic premises or a daycare of children service. <u>Response:</u> The proposal is for an outdoor children's nursery.
- h) Concerns that current use is not clear. Applicant has noted on application that the land has not been farmed for many years. The representation notes that the land has been used for horticulture, agriculture and recently grazing horses. <u>Response:</u> The application form has detailed the land has been used as agricultural rough pasture and has not been farmed in many years. The representations have detailed that the land has been used for horticulture, agriculture and recently grazing horses. Grazing land is still considered an agricultural use, even if the land has not been ploughed or actively managed for livestock. The current use description is considered suitable for the purposes of the application.

- Query relating to description as outdoor nursery and whether this would not be deemed as a public park.
  <u>Response:</u> The proposed use is distinct from a public park in that it is not available for public use and only for the paying patrons of the outdoor nursery.
- j) Query as to what the carbon footprint of the proposal is compared to the current green belt site.
  Response: The site is not designated as Green Belt and is part of the

**Response:** The site is not designated as Green Belt and is part of the settlement boundary, previously allocated for housing. The proposal is a relocation of an existing business, changing the use of an existing field and using a temporary building (separate application). It is considered any increase in carbon footprint is minimal.

k) There are various childminding services in the village, what is the need for the facility.

**<u>Response</u>**: The planning assessment considers the suitability of land use. The demand for a business or service is for market forces to determine and not part of the planning assessment.

I) The exit from 58 Brownlee Road shall be adversely affected by the proposal.

**Response:** The submitted plans have been updated to show this exit. The parking area is set back behind the existing access to the field and gates. As such, the exit from 58 Brownlee Road will have the same entry and exit space as previously.

- m) Insufficient lighting, particularly for winter pick-ups and drop offs. <u>Response:</u> It is for the operator of the business to ensure there is suitable lighting and their premises are fit for purpose. Should lighting be required, a condition shall be imposed on any permission to ensure lighting is considered to prevent any unacceptable light pollution.
- n) Queries regarding why Mr J Frame of neighbouring Birks Farm has not been notified and the applicant has neighbour notified himself. <u>Response:</u> The Council carries out neighbour notification and identifies the properties to be lettered. All properties within 20 metres of the red line site boundaries are required to be lettered, this includes the applicant's dwellinghouse. The dwellinghouse of Birks Farm lies out with 20 metres of the red line boundary. Where there is open land within the 20 metre buffer i.e. farm land, an advertisement for non-notification of neighbours is placed in the local press, which has been done in this case.
- Queries regarding right of access of residents and visitors to the agricultural land. Access has been denied to a local farmer and local walkers on Blueknowes Road as the applicant has parked his trailer in front of it since 2018/2019.

**Response:** The rights of access over private land as detailed in title deeds is a private legal matter. The use of the parking area does not prohibit access to any residential property on Blueknowes Road nor does it prohibit walkers from using Blueknowes Road.

- p) There will be an increase in traffic volume generated as children numbers increase from 7 to 10. <u>Response:</u> The Roads and Transportation consultation response makes clear they are aware of the increase in numbers from 7 to 10 and have concluded that any increase would be relatively minor.
- 5.2 These letters are available for inspection on the planning portal.

#### 6 Assessment and Conclusions

- 6.1 The applicant seeks planning permission to change the use of an agricultural field to an outdoor nursery. The main planning considerations in determining the application are whether the proposal complies with the development plan and the impact upon the general urban area of Law, residential amenity and access arrangements.
- 6.2 Policy 6 and Policy DM13 of the adopted SLLDP and Policy 3 of the proposed SLLDP2 seek to ensure proposals consider the residential nature of the general urban area. Policy 6 of the adopted SLLDP details that uses ancillary to residential areas, of which a children's nursery is considered to be, will be assessed on individual merit with particular regard to the proposals' effect on the amenity and character of the area. Representations have raised concerns relating to road safety, noise, traffic and suitability of the private road.
- 6.3 The proposed outdoor nursery, which replaces an existing childminding business, would result in dedicated parking for 5 spaces and a turning area for users on Blueknowes Road (a private road). The field to the rear of dwellings 60 and 58 Blueknowes Road will now be used to accommodate the children 5 days a week from 7am to 7pm. The submitted statement details the applicant's family will staff the outdoor nursery which consists of 2 members of staff both residing at 1 Blueknowes Road, who currently run the childminding business. The number of children being cared for would increase from 7 to 10. The children being catered for would consist of 3-5 year olds and before and after school care for school age children.
- 6.4 Given the context that the proposal relates to an existing business in close proximity and accessed off the same private road, it is not considered that there would be a significant intensification of the use as a result of the business being relocated. It is appreciated that the neighbouring residents may experience an increase in noise from children in the field. However, the total number of children is limited, there will be times the children will use the shelter and the total area of the field usable for the nursey is sizable. Environmental Services have raised no issues with the proposal generating a noise nuisance. However, all businesses have a duty of care to avoid creating a noise nuisance and if any noise issues arise, residents can raise a noise complaint with Environmental Services.
- 6.5 Roads and Transportation have raised no road safety concerns on the basis the access is already used for a childcare business. Parking details which show 5 parking spaces have been provided and deemed to be suitable. On this basis, Roads and Transportation have considered the visibility and suitability of the access would be acceptable. It is considered appropriate in this case to limit the maximum number of children attending the nursery by condition, to ensure there is no further intensification of the use beyond which the current access and proposed parking arrangement would not be suitable and could result in adverse impacts on residents by way of noise or disturbance.

- 6.6 It is considered that suitable access and parking arrangements are proposed, and there would not be a significant loss of residential amenity. As such, the proposal meets the terms of Policy 6, DM13 of the adopted SLLDP and Policy 3 of the proposed SLLDP2.
- 6.7 Policy 4 of the adopted SLLDP and Policy 5 of the proposed SLLDP2 are the general development management policies. The relevant criteria include impact on residential amenity, suitable access and parking, sustainability, and impact on the natural environment. Residential amenity, access and parking have been considered above. The proposal, by its nature as an outdoor nursery, limits the use of resources, such as heating and lighting, as children are predominately catered for outside. The proposal provides opportunity to use and learn about the natural environment whilst having minimal impact upon it, and additional landscaping is proposed. The proposal, therefore, meets the terms of Policy 4 of the adopted SLLDP and Policy 5 of the proposed SLLDP2.
- 6.8 An outdoor nursery is a suitable use within the general urban area. The proposal relates to the relocation of an existing business which already uses Blueknowes Road. Suitable parking arrangements on the private road have been proposed for the scale of the proposal. It is considered appropriate to limit the maximum numbers of the nursery to 10 as numbers beyond this would require further assessment to the suitability of the access, parking and impact on residential amenity. Overall, the proposal is considered to be acceptable since it complies with the relevant policies contained in the adopted and proposed local plans and will not have an unacceptable impact on the amenity of the surrounding area. It is, therefore, recommended that planning permission is granted.

## 7 Reasons for Decision

7.1 The proposal is a suitable use for the general urban area. The proposal relates to the relocation of an existing business which already uses Blueknowes Road. Suitable parking arrangements on the private road have been proposed for the scale of the proposal. It is considered appropriate to limit the maximum numbers of the nursery to 10 as numbers beyond this would require further assessment to the suitability of the access, parking and impact on residential amenity. The proposal meets the terms of Policy 4 and 6 of the adopted South Lanarkshire Local Development Plan 2015 and Policy DM13 of the relevant associated supplementary guidance. The proposal also meets the terms of Policy 3 and 5 of the proposed South Lanarkshire Local Development Plan 2. The proposal is acceptable and there are no other additional material considerations which would justify refusing to grant planning permission.

#### Michael McGlynn Executive Director (Community and Enterprise Resources)

12 February 2021

## **Previous References**

None

#### List of Background Papers

- Application form
- Application plans
- Supporting Statement
- South Lanarkshire Local Development Plan 2015 (adopted)
- Proposed South Lanarkshire Development Plan 2
- ► Neighbour notification letter dated 28 October 2020
- Lanark Gazette advert dated 4<sup>th</sup> November 2020

#### Consultations

Countryside and Greenspace	14.12.2020
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Roa	ds Development Management Team	17.11.2020
		08.01.2021
		11.02.2021
Env	ironmental Services	03.11.2020
Ear	ly Years Co-ordinator	Not received
Car	e Inspectorate	Not received

Representations	Dated:
Mrs Agnes Lannigan, 62 Brownlee Road, Law, Carluke, ML8	11.11.2020
5JD	

Mrs Fiona Rundell, 65 Brownlee Road, Law, Carluke, ML8	15.11.2020
5JD	15.11.2020

Mr Neil Martin, 60 Brownlee Road, Law, Carluke, ML85JD 07.11.2020

Miss Rosalind Findlay, 5, Lawhill Road, Law, ML8 5JQ 16.11.2020

- Mrs Caroline Findlay, 5, Lawhill Road, Law, ML8 5JQ 16.11.2020
- Mr Scott Findlay, 5, Lawhill Road, Law, ML8 5JQ 16.11.2020

Mrs Annie Weir, 64 Brownlee Road, Law, by Carluke, ML8 11.11.2020 5JD

Mr Marshall Findlay, 5, Lawhill Road, Law, ML8 5JQ 16.11.2020

Mrs June Murdoch, 22, Lawhill Road, Law, ML8 5JQ 16.11.2020

Mr John Rundell, 65 Brownlee Road, Law, Carluke, ML8 5JD 15.11.2020

Mr William Jeffrey, 58 Brownlee Road, Law, Carluke, 07.11.2020 ML85JD

Mrs Linsey Cree, 57 Brownlee Road, Law, Carluke, ML8 5JD 17.11.2020 17.11.2020 Mrs Carol Martin, 60 Brownlee Road, Law, Carluke, ML85JD 07.11.2020

Carol Martin, via Email

15.12.2020

Mr John Wishart, 66 Brownlee Road, Law, Carluke, ML8 5JD Carol Martin, Received via Email	08.01.2021 08.01.2021 01.02.2021
Mr and Mrs Wishart, 66 Brownlee Road, Law, Carluke, South Lanarkshire, ML8 5JD	14.01.2021
Mrs A Wishart, 66 Brownlee Road, Law, Carluke, ML85JD	08.01.2021
Fiona Rundell, Received Via Email	11.02.2021

### **Contact for further information**

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

Fiona Bailie, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB Phone: 01698 455271 Email: fiona.bailie@southlanarkshire.gov.uk

#### Detailed planning application

Paper apart – Application number: P/20/1006

#### **Conditions and reasons**

01. The maximum number of children to be on site at any one time is 10.

Reason: Further detailed assessment would be required to increase the numbers to assess impact on the access, parking arrangements and residential amenity.

02. Any lighting required shall be agreed in writing with the below details with the Council as Planning Authority and may be subject to further planning permission.

Lighting details shall include, where appropriate, details of all aspects of the installation including specific luminaire and lamp type; beam control; wattage; use of reflectors; baffles; louvres; cowling; lux contours/distribution diagrams and column type.

The approved scheme shall be implemented prior to the development being brought into use and shall thereafter be operated in accordance with the approved scheme to the satisfaction of the Council as Planning Authority.

Reason: To minimise the risk of nuisance from light pollution to nearby occupants.

- 03. 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., including, where appropriate, the planting of fruit/apple trees;
  - (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.

Reason: To ensure the appropriate provision of landscaping within the site.

04. 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.

Reason: In the interests of the visual amenity of the area.

05. That before the development hereby approved is brought into use, details of the storage and collection of waste arising from the development shall be submitted to and approved by the Council as Planning Authority. The storage and waste collection scheme shall be implemented before the development is brought into use and shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: To minimise nuisance, littering and pest problems to nearby occupants.

06. Development shall not commence until details of surface finishes to all parking and manoeuvring areas has been submitted for the consideration and written approval of the Council as Planning Authority. Development shall thereafter be carried out using the

approved materials or such alternatives as may be agreed in writing with the Council as Planning Authority.

Reason: To retain effective planning control and safeguard the amenity of the area.

07. That before the development hereby approved is completed or brought into use, 5 no. parking spaces (3m x 6m modules) shall be laid out, constructed and thereafter maintained to the specification of the Council as Roads and Planning Authority.

Reason: To ensure the provision of adequate parking facilities within the site.

08. That, before any works commence on site, a dilapidation survey shall be undertaken by the applicants, in accordance with the requirements of the Council's Roads and Transportation Services, along the length of Blueknowes Road, unless otherwise agreed in writing with the Council as Roads and Planning Authority. Thereafter, any subsequent repair works to the road in question shall be undertaken by the applicants, to the satisfaction of the Council's Roads and Transportation Services, before the development is brought in to use, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: In the interests of road safety.

