



Council Offices, Almada Street  
Hamilton, ML3 0AA

Monday, 06 December 2021

Dear Councillor

## **Planning Committee**

The Members listed below are requested to attend a meeting of the above Committee to be held as follows:-

**Date:** Tuesday, 14 December 2021  
**Time:** 10:00  
**Venue:** By Microsoft Teams,

The business to be considered at the meeting is listed overleaf.

Yours sincerely

**Cleland Sneddon**  
**Chief Executive**

### **Members**

Isobel Dorman (Chair), Mark Horsham (Depute Chair), John Ross (ex officio), Alex Allison, John Anderson, John Bradley, Archie Buchanan, Jackie Burns, Margaret Cowie, Peter Craig, Maureen Devlin, Mary Donnelly, Fiona Dryburgh, Lynsey Hamilton, Ian Harrow, Ann Le Blond, Martin Lennon, Joe Lowe, Ian McAllan, Davie McLachlan, Lynne Nailon, Carol Nugent, Graham Scott, David Shearer, Bert Thomson, Jim Wardhaugh

### **Substitutes**

Walter Brogan, Janine Calikes, Stephanie Callaghan, Gerry Convery, Margaret Cooper, Allan Falconer, Martin Grant Hose, Catherine McClymont, Kenny McCreary, Mark McGeever, Richard Nelson, Collette Stevenson, Jared Wark, Josh Wilson

## BUSINESS

### 1 Declaration of Interests

- 2 **Minutes of Previous Meeting** 5 - 12  
Minutes of the meeting of the Planning Committee held on 16 November 2021 submitted for approval as a correct record. (Copy attached)

---

### Item(s) for Decision

---

- 3 **Application P/21/0662 for Erection of Single Storey Front and Rear Extension to Existing Semi-Detached House at 62 Fernbrae Avenue, Rutherglen** 13 - 24  
Report dated 24 November 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 4 **Application P/21/0332 for Land Engineering / Remodelling Operations to Provide Hardstanding for External Storage and Distribution Purposes and Formation of Perimeter Landscaped Bund with Associated Land Drainage at Marshalls PLC, Roadmeetings, Yieldshields Road, Carluke** 25 - 36  
Report dated 3 December 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 5 **Application P/21/0333 for Land Engineering / Remodelling Operations to Provide Hardstanding for External Storage and Distribution Purposes and Formation of Perimeter Landscaped Bund with Associated Land Drainage at Marshalls PLC, Roadmeetings, Yieldshields Road, Carluke** 37 - 48  
Report dated 3 December 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 6 **Application P/21/1525 for Construction and Operation of a Battery Energy Storage System for the Storage of Electricity, Including up to 24 Battery Storage Containers, Ancillary Infrastructure, Substation, Access Road, 2.4 Metre High Security Fencing, CCTV and Security Lighting at Land 70 Metres Southwest of Sanmex Buildings, Downiebrae Road, Rutherglen** 49 - 64  
Report dated 24 November 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 7 **Application P/21/1228 for Erection of Agricultural Worker's House at Unused Field, Gated Entrance off Millwell Road, Opposite Laigh Cleughearn Farm, East Kilbride** 65 - 76  
Report dated 24 November 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 8 **Application P/21/1148 for Further Application in Relation to Planning Consent P/19/1232 for Residential Development Involving House Substitutions on 79 Plots (Plots 3-6, 12-15, 38-108) at Area D, Site of Former Brackenhill Farm, Meikle Earnock Road, Hamilton** 77 - 88  
Report dated 3 December 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 9 **Application P/21/1391 for Residential Development Comprising 105 Houses, MUGA, Landscaping and Associated Infrastructure at Land 115 Metres Northwest of 52 Rickard Avenue, Rickard Avenue, Strathaven** 89 - 108  
Report dated 2 December 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)

- 10 Application P/21/1183 for Substitution of House Types (Amendment to Planning Consent CL/15/0445) at Land 125 Metres East of 15 Lanark Road, Lanark Road, Braidwood, Carluke** 109 - 126  
Report dated 3 December 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)
- 11 Planning Enforcement Charter** 127 - 150  
Report dated 2 December 2021 by the Executive Director (Community and Enterprise Resources). (Copy attached)

---

## **Urgent Business**

---

- 12 Urgent Business**  
Any other items of business which the Chair decides are urgent.

***For further information, please contact:-***

Clerk Name:	Stuart McLeod
Clerk Telephone:	01698 454815
Clerk Email:	stuart.mcleod@southlanarkshire.gov.uk



## PLANNING COMMITTEE

2

Minutes of meeting held via Microsoft Teams on 16 November 2021

### Chair:

Councillor Isobel Dorman

### Councillors Present:

Councillor Alex Allison, Councillor John Anderson, Councillor John Bradley, Councillor Archie Buchanan, Councillor Jackie Burns, Councillor Margaret Cowie, Councillor Peter Craig, Councillor Maureen Devlin, Councillor Mary Donnelly, Councillor Lynsey Hamilton, Councillor Mark Horsham (Depute), Councillor Martin Grant Hose (substitute for Councillor Ann Le Blond), Councillor Martin Lennon, Councillor Kenny McCreary (substitute for Councillor Ian Harrow), Councillor Davie McLachlan, Councillor Lynne Nailon, Councillor Carol Nugent, Councillor Graham Scott, Councillor David Shearer, Councillor Bert Thomson, Councillor Jim Wardhaugh

### Councillors' Apologies:

Councillor Fiona Dryburgh, Councillor Ian Harrow, Councillor Ann Le Blond, Councillor Joe Lowe, Councillor Ian McAllan, Councillor John Ross (ex officio)

### Attending:

#### Community and Enterprise Resources

S Clark, Planning Team Leader (East); P Elliott, Head of Planning and Economic Development; T Finn, Planning and Building Standards Manager (Headquarters); F Jack, Team Leader, Development Management Team, Roads and Transportation Services; T Meikle, Planning and Building Standards Manager (West)

#### Finance and Corporate Resources

M Cannon, Solicitor; S Jessup, Administration Assistant; K McLeod, Administration Assistant; S McLeod, Administration Officer; A Thompson, Public Relations Officer

---

## 1 Declaration of Interests

The following interest was declared:-

<b>Councillor(s)</b>	<b>Item(s)</b>	<b>Nature of Interest(s)</b>
Allison	Application P/21/0215 for Extension to Chicken Shed and Erection of 2 Feed Bins at Crawhill Wood, C24 from Thankerton to A702, Thankerton, Biggar	Business relationship with the applicant

---

## 2 Minutes of Previous Meeting

The minutes of the meeting of the Planning Committee held on 5 October 2021 were submitted for approval as a correct record.

**The Committee decided:** that the minutes be approved as a correct record.

---

### **3 Application P/20/1684 for Conversion of Byre to House and Associated External Alterations at South Netherburn Farm, Broomfield Road, Netherburn, Larkhall**

---

A report dated 5 November 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/20/1684 by A King for the conversion of a byre to a house and associated external alterations at South Netherburn Farm, Broomfield Road, Netherburn, Larkhall.

**The Committee decided:** that planning application P/20/1684 by A King for the conversion of a byre to a house and associated external alterations at South Netherburn Farm, Broomfield Road, Netherburn, Larkhall be granted subject to the conditions specified in the Executive Director's report.

---

### **4 Application P/20/1897 for Demolition of Existing Car Wash and Ancillary Buildings and Erection of Coffee Shop (Class 3) with Drive-Thru, Jet Wash Facility, Site Access Reconfiguration, Vehicular Parking and Associated Works at Garage, Bothwell Road, Uddingston**

---

A report dated 5 November 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/20/1897 by Ashley Vintners (Strathclyde) Limited for the demolition of an existing car wash and ancillary buildings and erection of a coffee shop (class 3) with drive-thru, jet wash facility, site access reconfiguration, vehicular parking and associated works at Garage, Bothwell Road, Uddingston.

A request for a hearing in respect of the application had been received, however, the application did not meet the criteria for a hearing.

Points raised in 5 further letters of representation were referred to at the meeting and addressed by officers. An explanation for the time taken to consider the application, which had included COVID restrictions and the requirement to wait until after the hibernation period for a bat survey to be undertaken, had also been provided.

Following discussion, during which officers responded to members' questions on various aspects of the report, Councillor Dorman, seconded by Councillor Horsham, moved that the application be granted, subject to the conditions specified in the Executive Director's report. Councillor Scott, seconded by Councillor McCreary, moved as an amendment that the application be refused on the grounds of negative impact on access, parking and traffic movement in the vicinity of the application site. On a vote being taken by roll call, members voted as follows:-

#### **Motion**

Peter Craig, Isobel Dorman, Mark Horsham

#### **Amendment**

Alex Allison, John Anderson, John Bradley, Archie Buchanan, Jackie Burns, Margaret Cowie, Maureen Devlin, Mary Donnelly, Lynsey Hamilton, Martin Grant Hose, Kenny McCreary, Davie McLachlan, Lynne Nailon, Carol Nugent, Graham Scott, David Shearer, Bert Thomson, Jim Wardhaugh

3 members voted for the motion and 18 for the amendment which was declared carried.

**The Committee decided:**

that planning application P/20/1897 by Ashley Vintners (Strathclyde) Limited for the demolition of an existing car wash and ancillary buildings and erection of a coffee shop (class 3) with drive-thru, jet wash facility, site access reconfiguration, vehicular parking and associated works at Garage, Bothwell Road, Uddingston be refused on the grounds of negative impact on access, parking and traffic movement in the vicinity of the application site.

*Councillor Lennon left and re-joined the meeting during consideration of the above item of business*

---

**5 Application P/21/1107 for Erection and Operation of Extension to Kennoxhead Wind Farm Consisting of 8 Turbines, 7 up to a Maximum Height to Blade Tip of 220 Metres and 1 up to a Maximum Height to Blade Tip of 200 Metres (Consultation from Scottish Ministers under Section 36 of the Electricity Act 1989) at Penbreck Wind Farm, Glentaggart Road, Glespin, Lanark**

---

A report dated 4 November 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/21/1107 by Kennoxhead Wind Farm Limited for the erection and operation of an extension to Kennoxhead Wind Farm consisting of 8 turbines, 7 up to a maximum height to blade tip of 220 metres and 1 up to a maximum height to blade tip of 200 metres (consultation from Scottish Ministers under Section 36 of the Electricity Act 1989) at Penbreck Wind Farm, Glentaggart Road, Glespin, Lanark.

The proposal had been submitted to the Scottish Government under Section 36 of the Electricity Act 1989 as the proposal related to a wind farm with a generating capacity of over 50 megawatts (MW).

The application was considered acceptable on the basis that it:-

- ♦ accorded with the relevant policies in the Development Plan
- ♦ accorded with National Policy
- ♦ would not have any significant adverse impact within the surrounding area

On a point raised regarding the availability of information on all windfarm activity within South Lanarkshire, officers undertook to make available to members of the Committee a plan indicating all windfarm activity when considering future applications relating to windfarms.

**The Committee decided:**

- (1) that the Scottish Government be informed that South Lanarkshire Council would have no objection to planning application P/21/1107 by Kennoxhead Wind Farm Limited for the erection and operation of an extension to Kennoxhead Wind Farm consisting of 8 turbines, 7 up to a maximum height to blade tip of 220 metres and 1 up to a maximum height to blade tip of 200 metres (consultation from Scottish Ministers under Section 36 of the Electricity Act 1989) at Penbreck Wind Farm, Glentaggart Road, Glespin, Lanark, subject to the conditions attached to the Executive Director's report;
- (2) that, in addition, the Scottish Government be advised that approval should be subject to the conclusion of legal agreements covering:-

- ◆ community contribution payments
  - ◆ the funding of a Planning Monitoring Officer
  - ◆ control over turbine transportation, a roads structure assessment regime and the repair of any damage to roads and bridges arising from extraordinary wear and tear associated with the development and associated indemnity insurance requirements
- (3) that the applicant be responsible for the Council's costs associated with the legal agreements and restoration guarantee quantum; and
- (4) that the Head of Planning and Economic Development be authorised to undertake any discussions, further agreements of conditions and planning obligations, if required, with the Scottish Government.

*[Reference: Minutes of 22 September 2020 (Paragraph 12)]*

---

## **6 Application P/21/0215 for Extension to Chicken Shed and Erection of 2 Feed Bins at Crawhill Wood, C24 from Thankerton to A702, Thankerton, Biggar**

---

A report dated 28 October 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/21/0215 by JA Hewitt and Sons for an extension to a chicken shed and erection of 2 feed bins at Crawhill Wood, C24 from Thankerton to A702, Thankerton, Biggar.

**The Committee decided:** that planning application P/21/0215 by JA Hewitt and Sons for an extension to a chicken shed and erection of 2 feed bins at Crawhill Wood, C24 from Thankerton to A702, Thankerton, Biggar be granted subject to the conditions specified in the Executive Director's report.

*Councillor Allison, having declared an interest in the above item of business, withdrew from the meeting during its consideration*

*In terms of Standing Order No 13, the Chair adjourned the meeting at 10.58am for a 7 minute period. The meeting recommenced at 11.05am without the attendance of Councillors Burns and Nugent*

---

## **7 Application P/21/0638 for Change of Use of Communal Open Space to Garden Ground at Land Adjacent to 17-1, Hunthill Road, Blantyre**

---

A report dated 5 November 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/21/0638 by D Szafranek for the change of use of communal open space to garden ground at land adjacent to 17-1, Hunthill Road, Blantyre.

Points raised in a further letter of representation were referred to at the meeting and addressed by officers.

Following discussion, during which officers responded to members' questions, Councillor Scott, seconded by Councillor Dorman, moved that the application be deferred on the grounds that enforcement action should be completed or the applicant's business be relocated prior to consideration of the application. Councillor Wardhaugh, seconded by Councillor Lennon, moved as an amendment that the application be refused on the grounds of reduction of amenity. On a vote being taken by roll call, members voted as follows:-



### **Motion**

Alex Allison, John Anderson, John Bradley, Archie Buchanan, Margaret Cowie, Peter Craig, Maureen Devlin, Mary Donnelly, Isobel Dorman, Lynsey Hamilton, Mark Horsham, Martin Grant Hose, Kenny McCreary, Davie McLachlan, Lynne Nailon, Graham Scott, Bert Thomson

### **Amendment**

Martin Lennon, David Shearer, Jim Wardhaugh

17 members voted for the motion and 3 members voted for the amendment. The motion was declared carried.

**The Committee decided:** that planning application P/21/0638 by D Szafranek for the change of use of communal open space to garden ground at land adjacent to 17-1, Hunthill Road, Blantyre be deferred on the grounds that enforcement action should be completed or the applicant's business be relocated prior to consideration of the application.

*Councillor Nugent joined the meeting during consideration of the above item of business*

---

## **8 Application P/21/1129 for Demolition of Existing Buildings and Erection of 28 Flats with Associated Infrastructure and Landscaping at Former Greenhills Sports Centre, Stroud Road, East Kilbride**

---

A report dated 5 November 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/21/1129 by Merchant Homes Partnerships Limited for the demolition of existing buildings and the erection of 28 flats with associated infrastructure and landscaping at former Greenhills Sports Centre, Stroud Road, East Kilbride.

The application had been assessed against the relevant policies and criteria contained in the adopted South Lanarkshire Local Development Plan 2 and government advice/policy. Details of the assessment were provided in the report. The development constituted Development Contrary to the Development Plan, however, it was not considered that the proposal was significantly contrary to the Development Plan.

In the view of the Executive Director (Community and Enterprise Resources), a departure from the Development Plan was justified in this case for the following reasons:-

- ◆ the proposal complied with policies 3, 5, 11, 12 and DM7 of the adopted South Lanarkshire Local Development Plan 2
- ◆ the proposal would have no significant adverse impact on residential amenity
- ◆ the proposal complied with standards within the Council's Residential Development Guide (2011)
- ◆ the proposal had no road safety implications and provided adequate access and parking
- ◆ the proposal provided affordable housing which was supported by Scottish Planning Policy

**The Committee decided:** that planning application P/21/1129 by Merchant Homes Partnerships Limited for the demolition of existing buildings and the erection of 28 flats with associated infrastructure and landscaping at former Greenhills Sports Centre, Stroud Road, East Kilbride be granted subject to the conditions specified in the Executive Director's report.

*Councillor McLachlan left the meeting during consideration of the above item of business*

---

## **9 Application P/21/1183 for Substitution of House Types (Amendment to Planning Consent CL/15/0445) at Land 125 Metres East of 15 Lanark Road, Lanark Road, Braidwood, Carluke**

---

A report dated 28 October 2021 by the Executive Director (Community and Enterprise Resources) was submitted on planning application P/21/1183 by the Allanwater Homes and Upper Braidwood Development Consortium for the substitution of house types (amendment to planning consent CL/15/0445) at land 125 metres east of 15 Lanark Road, Lanark Road, Braidwood, Lanark.

Points raised in a further email of representation were referred to at the meeting and addressed by officers.

There followed a full discussion on the application during which officers responded to members' questions on various aspects of the report.

**The Committee decided:** that planning application P/21/1183 by the Allanwater Homes and Upper Braidwood Development Consortium for the substitution of house types (amendment to planning consent CL/15/0445) at land 125 metres east of 15 Lanark Road, Lanark Road, Braidwood, Lanark be deferred to a future meeting of the Committee on the grounds that it would allow further information to be provided in relation to safe routes to school and other transport arrangements.

*[Reference: Minutes of 26 April 2016 (Paragraph 3)]*

---

## **10 South Lanarkshire Local Development Plan 2 Supporting Planning Guidance: Carrying Out Development at a Dwellinghouse and Electric Vehicle Charge Points**

---

A report dated 5 November 2021 by the Executive Director (Community and Enterprise Resources) was submitted on the preparation of Supporting Planning Guidance in relation to the South Lanarkshire Local Development Plan 2 (SLLDP2) on:-

- ◆ Carrying Out Development at a Dwellinghouse
- ◆ Electric Vehicle Charge Points (EVCPs)

The purpose of the Supporting Planning Guidance (SPG) was to support the policy approach contained within the adopted SLLDP2 by providing more detailed information, guidance and advice.

The SPG on Carrying Out Development at a Dwellinghouse provided detailed guidance to homeowners proposing to extend or alter their home and updated the advice previously set out in the Development Management and Placemaking Supplementary Guidance associated with the former South Lanarkshire Local Development Plan.

The SPG on Electric Vehicle Charge Points was a new document prepared to provide up-to-date advice on the emerging issue of the transition to low emission vehicles and assist developers in terms of the type and number of EVCP units and related information that would be required to be submitted with planning applications.

If approved, the SPG would be published and made available for public consultation for a period of 6 weeks during January and February 2022. Following the consultation process, a report would be submitted to this Committee on any comments received, the Council's response and any suggested amendments to the SPG. Subject to the Committee's approval, the SPG would become a material consideration in the determination of planning applications alongside the SLLDP2.

It was anticipated that further SPG would be produced for the Committee's future consideration in relation to:-

- ◆ Town and Neighbourhood Centres
- ◆ Residential Design Guide
- ◆ Rural Design and Landscape Impact
- ◆ Community Infrastructure Assessment

**The Committee decided:**

- (1) that the following Supporting Planning Guidance, attached at appendices 1 and 2 to the report, be approved:-
  - ◆ Carrying Out Development at a Dwellinghouse
  - ◆ Electric Vehicle Charge Points (EVCPs)
- (2) that the Supporting Planning Guidance be published and made available for a 6 week period of public consultation during January and February 2022; and
- (3) that the Head of Planning and Economic Development be authorised to undertake the appropriate procedures and to make drafting and technical changes to the Supporting Planning Guidance on Carrying out Development at a Dwellinghouse and Electric Vehicle Charge Points prior to their publication for consultation.

*[Reference: Minutes of 1 December 2020 (Paragraph 4)]*

*Councillor Cowie left the meeting during consideration of the above item of business*

---

## **11 Urgent Business**

There were no items of urgent business.



# Report

3

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/0662
Planning proposal:	Erection of single storey front and rear extension to existing semi-detached dwelling

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	Mr Sabir Zazia
Location:	62 Fernbrae Avenue Rutherglen G73 4AE

## 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.

## 3 Other information

- ◆ Applicant's Agent: Keith Edwards
- ◆ Council Area/Ward: 11 Rutherglen South
- ◆ Policy Reference(s): South Lanarkshire Local Development Plan 2021  
Policy 3 General Urban Areas  
Policy 5 Development Management and Placemaking  
Policy DM2 House Extensions and Alterations

### ◆ Representation(s):

▶	14	Objection Letters
▶	0	Support Letters
▶	7	Comment Letters

- ◆ Consultation(s): Building Standards Services

## Planning Application Report

### 1 Application Site

- 1.1 The application site relates to a residential dwelling at 62 Fernbrae Avenue in Rutherglen. The property is a semi-detached dwelling surrounded by residential properties to the west, north and east and the entrance to Fernhill School is opposite to Fernhill Road to the south. The property and surrounding properties are accessed by a footpath network off Fernbrae Road. The site has a large front garden with two terraced levels and the rear garden slopes from south to north and the rear garden has terraced sections at three levels. The properties to the rear of the site on Craignure Road are set at a lower level as a result of the local topography.

### 2 Proposal(s)

- 2.1 The applicant seeks consent for the erection of a single storey front and rear extension. The applicant also intends to convert the loft area to provide an additional bedroom, however, this would not require planning consent, and this can be completed under current permitted development legislation. The front extension would project 2.7 metres, with a 2.4 metre internal space, would be 3.9 metres in height and 4.9 metres in width and would provide a front porch area. The rear extension would project 3.9 metres from the existing rear building line, measure 5 metres in height at the highest point, 5.7 metres wide and would provide a sun lounge.
- 2.2 When the application was originally submitted, the proposed front extension projected 4 metres from the existing front building line. The Planning Service requested a reduction in this projection and an amended plan was submitted with the projection reduced to 2.7m. Following a site appraisal by the Planning Officer and consideration of the representations submitted, the applicant has revised the proposal by removing the volume of glazing in the front and rear extension.
- 2.3 A complaint was received in relation to the property by the Planning Enforcement Team regarding the height of fence posts at the site. At the site visit, relating to the planning application, the Planning Officer raised this issue and the fence posts have been reduced to the same height of the fence.

### 3 Background

#### 3.1 Local Plan Status

##### 3.1.1 Adopted South Lanarkshire Local Development Plan 2 (SLLDP2) 2021

The application site is on land identified as General Urban Area within the adopted South Lanarkshire Local Development Plan 2 (SLLDP2) 2021 and contains the following policies against which the proposal should be assessed:-

- ◆ Policy 3: General Urban Areas
- ◆ Policy 5: Development Management and Placemaking
- ◆ Policy DM2: House Extensions and Alterations

#### 3.2 Relevant Government Advice/Policy

- 3.2.1 Scottish Planning Policy (Revised 2020) (SPP) advises that proposals that accord with up-to-date plans should be considered acceptable in principle.

#### 3.3 Planning Background

- 3.3.1 The application site has had no previous planning applications submitted.

#### **4 Consultation(s)**

- 4.1 **Building Standards Services** - the stability of the retaining wall at the rear of the site should not be affected by the proposal

**Response:** Noted.

#### **5 Representation(s)**

- 5.1 Statutory neighbour notification was undertaken. A total of 14 objections and 7 letters of comment have been received. A planning consultant submitted an objection on behalf of 5 of the objectors. The concerns in relation to the proposal will be responded to in this report.

- a) **That the proposal will have an impact on the structural integrity of the retaining wall at the rear of the site which could be fatal to neighbours if this collapses.**

**Response:** The retaining wall at the rear of the site is located 8 metres away from where the proposed extension would be located. A Building Warrant will be required for the proposal and an assessment of the structural impact of the development will be considered in this assessment. In an initial review of the plans submitted, Building Standards Services have advised that the structural integrity of the retaining wall should not be affected by the proposal.

- b) **That the proposal will have a detrimental impact on the privacy of the surrounding properties.**

**Response:** When the application was submitted, the rear extension had glazing panels along the whole extent of the west and north elevation, the corner of which would have been 2.2 metres from the boundary of 9 Craignure Road. The rear garden of 9 Craignure Road is relatively well screened by existing boundary fencing and planting, however, it was considered that the glazing panels on the corner of the proposed rear extension may increase the potential for overlooking at the neighbouring property. The glazing panels on the corner of the proposed extension have been removed in the amended submission. The window-to-window distance between the proposed extension and the property to the rear of the site meets the 20-metre minimum distance as set out in the South Lanarkshire Residential Design Guide. The revised plans contain two side windows in the western elevation. The windows would be located 4 metres from the neighbouring boundary at 64 Fernbrae Avenue where the rear garden is screened by an existing boundary fence, therefore, it is not considered the proposed extension would have a significant detrimental impact on overlooking at this location. The original submission for the front extension included three glazing panels along the eastern elevation of the proposal. The amended submission contains one repositioned window to prevent direct overlooking into the neighbouring property.

- c) **That the proposal will have a significant detrimental impact on neighbouring visual amenity and loss of light.**

**Response:** The scale of the proposal is not considered excessive for a residential property. The extensions are both single storey with the rear extension projecting 3.9 metres and the front extension projecting 2.7 metres, therefore, the proposal is not considered to have a significant detrimental impact on the surrounding visual amenity. The proposed rear extension would be on the north elevation of the property. The Council has carried out a shadow test of the proposed extensions. The proposed extension would be 5 metres in height and the existing building measures 8.5 metres in height. Therefore, the existing building would produce a higher degree of shadow than the proposed extension due to the orientation of the property at the application site. There would be 2.5

metres between the front of the proposed extension and the rear of the property at 64 Fernbrae Avenue maintaining an opening for light to the rear garden at this point. On the eastern elevation the extension would overshadow the lounge window of the applicant's property. Furthermore, from mid-afternoon, the front of the properties at 60 and 62 Fernbrae Avenue would be overshadowed by the existing properties at 66 and 64 Fernbrae Avenue as these properties are positioned 11.5 metres forward of the building line at number 62 and 60. Given the sites orientation and that the extensions proposed are single storey, it is not considered that the proposal would result in a significant loss of light to the neighbouring properties.

- d) **That bats use the space between the properties to the rear as a flight path and a bat survey has not been completed to assess the impact on commuting routes between bat roosts.**

**Response:** A survey relating to the flight path for bats is not required for a domestic residential development proposal of this scale. An advisory note can be attached to the decision notice, if approved, detailing the legal responsibilities of the applicant if a bat roost is found during construction works.

- e) **That the proposal is an over development which will look completely out of place.**

**Response:** The application site measures 330 square metres, and the footprint of the extended property would measure 65 square metres. This would mean that 80% of the site would be garden ground which would not be considered an over development of the site.

- f) **That the noise levels will impact on surrounding properties and neighbours working night shift.**

**Response:** Environmental Services enforce the legislation relating to noise disturbance. An advisory note can be attached to the decision notice, if approved, which details BS 5228 – Noise control on construction and open sites and the acceptable audible construction times.

- g) **That an oversized property will have a negative impact on the streetscape.**

**Response:** The front of the properties at this location has a staggered building line leading onto a triangular area of open space which fronts the road and the property at 62 Fernbrae Avenue is set back 31 metres from the road line. It is not considered that the front extension would have a significant detrimental impact on the existing streetscape given the distance from the road, the lower level of the site, the staggered building frontages and the scale of the single storey proposal.

- h) **That the dust levels will impact on drying washing at the neighbouring properties.**

**Response:** The construction of the proposal would not require a significant level of demolition works which would result in raised dust levels. Therefore, it is unlikely that neighbouring washing would be impacted to a significant level during construction works.

- i) **That the proposal will open the floodgates for further overdevelopment of properties in the area.**

**Response:** The proposal is not considered to be an overdevelopment of the site. Each planning application is considered on an individual basis and assessed in accordance with the policies in the local development plan. Properties also benefit from permitted development rights where extensions can be built without



the requirement for planning consent. Normally a rear extension projecting 3.9 metres, on a semi-detached property, would not require planning consent. In this case, planning consent was required due to the level differences at the rear of the property which takes it over the permitted height of 4 metres. Any front extension exceeding 3 square metres and 3 metres in height requires planning consent and any further applications in the area would be considered in terms of compliance with the relevant development plan policies.

- j) **That the proposal will impact on protected songbird species nesting at the side of the site.**

**Response:** The proposal would not require the removal of any trees at the site, therefore, would not impact on nesting birds.

- k) **That the proposal will impact on the drainage infrastructure for the surrounding properties and surface water drainage.**

**Response:** The proposed drainage arrangements would be assessed as part of the Building Warrant Application process. The proposed areas for development are currently hard standing, therefore, the extensions would not result in a loss of currently permeable land which would increase water run-off.

- l) **That the plans submitted do not meet the standard guidance prescribed in the Heads of Planning Scotland (HOPS) in that the surrounding road and property names and numbers are not detailed on the plans, all land and buildings within a 20m radius of the site are not identified on the block plan, there are no written dimensions showing distances to the boundaries, eaves or ridge height and the scale bar cannot be verified and the application should not have been validated.**

**Response:** The plans submitted are considered to clearly identify the site and the proposals. The agent was requested to amend a scale bar and add some dimensions to the amended plans for clarity.

- m) **That if the invasive security lights are closer to the surrounding properties, this will impact on the enjoyment of local residents enjoying the night sky from increased light pollution.**

**Response:** Issues regarding light pollution are investigated and monitored by Environmental Services. Complaints regarding light pollution should be directed to this service who will advise if there is a breach of standards and advise on any action required or suggest any mitigating measures.

- n) **That the proposal will impact on the viability of neighbouring trees.**

**Response:** The proposal would not impact on neighbouring trees. Any damage to existing boundary treatments as a result of construction would be a legal matter to be resolved between the parties involved. It was noted at the site visit that significant tree cutting and pruning had recently occurred at neighbouring properties.

- o) **That construction parking will have a severe impact on the parking adjacent to the school opposite where zig zag lines should be observed, and the site has no suitable access or parking for the increased accommodation.**

**Response:** The area has limited available parking with the restricted zone to the front of the school and none of the surrounding properties have access to off-street parking. The owner of any vehicle parking in the area would be responsible for observing the parking restrictions in the locality. The existing property contains three bedrooms, and an additional bedroom is proposed in the loft conversion. The Planning Service would normally request the provision of an additional off-

street parking space given the increase in the accommodation. However, as the property does not currently have access to off street parking, is unable to provide this and as the loft conversion could be competed as permitted development, it would not be considered reasonable to refuse the proposal on the basis of parking provision.

- p) **That there are no site levels showing the complexity of the sites topography and that sections should be submitted to give an accurate indication of the proposed development.**

**Response:** A proposed section drawing of the dwelling was submitted showing the level differences between the front and rear of the property. The topography of the site was assessed at the site visit by the Planning Officer which was taken into consideration when requesting the amendments to the proposal.

- q) **That the proposal has potential Human Rights implications for neighbours in terms of alleged interference with privacy, home or family life.**

**Response:** A planning application is assessed in terms of the adopted policies in the local development plan and Scottish Government planning legislation. Any other beach of legislation would be a legal matter and the responsibility of the parties involved.

- r) **That clarity openness and fairness are essential elements of the planning system and commentary should be made available on any further submissions.**

**Response:** The representations submitted in relation to the proposal have been considered and a comprehensive site assessment was completed. An amended proposal has been submitted, however, the alterations in removing the amount of glazing in the proposal is considered to improve neighbouring amenity. Therefore, the amendment is not considered a material change which would further impact on the neighbouring properties and further consultation was not considered necessary.

5.2 These letters are available for inspection on the planning portal.

## **6 Assessment and Conclusions**

6.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the adopted South Lanarkshire Local Development Plan 2021 (SLLDP 2).

6.2 In the adopted South Lanarkshire Local Development Plan 2021 (SLLDP 2) the application site is located on land designated as being in the General Urban Area of Rutherglen. Policy 3 General Urban Area seeks to ensure proposals do not adversely affect the amenity and character of predominately residential areas. The proposal relates to a front and rear extension to a residential property which is considered to be an appropriate use and type of proposal for the surrounding area. The height and projections of the extensions are not considered excessive at this location, and they would not be considered overbearing or have an unacceptable visual impact on the amenity of the surrounding area.

6.3 Policy 5 'Development Management and Placemaking' states that development proposals should take account of and be integrated within the local context and built form. New development should also have no significant adverse impacts on the local community. The application site is located within a small group of properties where the rear gardens are connected at differing levels and have irregular spacing. The site

slopes downwards from south to north with the properties to the rear on Craignure Road set at a lower level. The scale of the proposed extensions is not considered to be of an excessive scale and this type of proposal is widely constructed on many residential households within South Lanarkshire Council. The ground floor extensions would have an internal space of 2.4m at the front and 3.6m at the rear which is not considered disproportionate for an extension to residential accommodation. The adopted SLLDP2 does not contain specific guidance relating to front extensions, related guidance is under development. However, in this case the frontage of the properties do not have a regular, linear road frontage where a front extension would be prominent. The properties have a staggered, irregular frontage, with large front gardens and open space which fronts the road. In addition, the reduction in the original projection of the extension maintains a gap for light to the rear of the neighbouring property. In this case the front extension is not considered to have a significant detrimental impact on the existing streetscape or the visual amenity of the surrounding area.

- 6.4 Concerns relating to potential privacy issues were considered and several glazing panels have been removed in the rear and front extensions to address these concerns. The proposal also meets the minimum standard regarding window-to-window distances for directly opposite windows. In terms of overshadowing, it is not considered that the proposals will have a significant detrimental impact on the surrounding properties due to the scale of the proposed development and the orientation of the site. There are parking constraints at the site, however if approved, conditions can be added to the decision notice requiring the submission of construction vehicle parking and access to the site. In addition, a condition can be added to ensure the materials match those of the existing property, to ensure the development does not appear out of character. While it is recognised that the proposed development will introduce an element of change in the locality, the scale of the proposal is not considered unreasonable for residential extensions.
- 6.5 The representations received have raised concerns relating to noise and light pollution and protected species at the site. The responses to these concerns are detailed above and are not considered to warrant refusal of the application.
- 6.6 In summary, it is considered that the proposal conforms to development plan policy and that the proposal raises no significant amenity issues. Following a full and detailed assessment of the proposed development, it is considered that the proposed development is in accordance with the adopted South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and on that basis, it is recommended that planning permission is granted.

## **7 Reasons for Decision**

- 7.1 The proposal seeks planning permission for the erection of a single storey front and rear extension to a residential property in a residential area. The proposal would have no significant adverse impact on amenity, and it complies with Policies 3, 5 and DM2 of the adopted South Lanarkshire Local Development Plan 2 (2021).

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

Date: 24 November 2021

## Previous references

- ◆ None

## List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letters dated 26 May 2021 and 26 July 2021

### ▶ Consultations

Building Standards Services 15.07.2021

▶ Representations	Dated:
G McAleer, 13 Craignure Road, Rutherglen, Glasgow, South Lanarkshire, G73 4AW	19.08.2021 19.08.2021
Michelle Lamont, 64 Fernbrae Avenue, Rutherglen, Glasgow, South Lanarkshire, G73 4AE	19.08.2021 19.08.2021
Mr Barrie Monteith, 9 Craignure Road, Rutherglen, Glasgow, South Lanarkshire, G73 4AW	19.08.2021 19.08.2021
Mihail Dragos Stoian, 11 Craignure Road, Rutherglen, G73 4AW	23.06.2021 23.06.2021
Janice Clarke, 7 Craignure Road, Rutherglen, Glasgow, South Lanarkshire, G73 4AW	16.06.2021 16.06.2021
Ian M Neilson, 5 Craignure Road, Rutherglen, Glasgow, South Lanarkshire, G73 4AW	16.06.2021 16.06.2021
Mr Gregg McAleer, 13 Craignure Rd, Fernhill, Rutherglen, g734aw	07.06.2021
Mr Barrie Monteith, 9, Craignure Road, Glasgow, G734aw	14.06.2021
Miss Brenda McLaren, 60 Fernbrae Avenue, Rutherglen, Glasgow, G73 4AE	14.06.2021
Miss Michelle Lamont, 64 Fernbrae Avenue, Glasgow, G73 4AE	15.06.2021
Mrs Grace Lamont, 68 Fernbrae Avenue, Glasgow, G73 4AE	14.06.2021
Miss Lindsey Aga, 9 Craignure Rd, Rutherglen, G734aw	14.06.2021
Michelle Lamont, Via Planning Objections Scotland	25.06.2021
Mihai Dragos Stoian, Via Planning Objections Scotland	25.06.2021
Gregg McAleer, Via Planning Objections Scotland	25.06.2021

Brenda McLaren, Via Planning Objections Scotland	25.06.2021
Barrie Monteith, Via Planning Objections Scotland	25.06.2021
Mr Barrie Monteith, 9 Craignure Road, Rutherglen, Glasgow, South Lanarkshire, G73 4AW	25.06.2021
Lindsey Aga, Via Email	25.06.2021
Miss Lindsey Aga, No 9, Craignure Rd, Rutherglen, G734aw	14.06.2021
Mihail Dragos Stoian, 11 Craignure Road, Rutherglen, Glasgow, South Lanarkshire, G73 4AW	19.08.2021

**Contact for further information**

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

Evelyn-Ann Wilson, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton,  
ML3 6LB

Phone: 01698 455059

Email: [evelyn-ann.wilson@southlanarkshire.gov.uk](mailto:evelyn-ann.wilson@southlanarkshire.gov.uk)

**Conditions and reasons**

01. That the facing materials to be used for the external walls and roof of the extensions hereby approved shall match in colour and texture those of the existing adjoining building on the site to the satisfaction of the Council as Planning Authority.

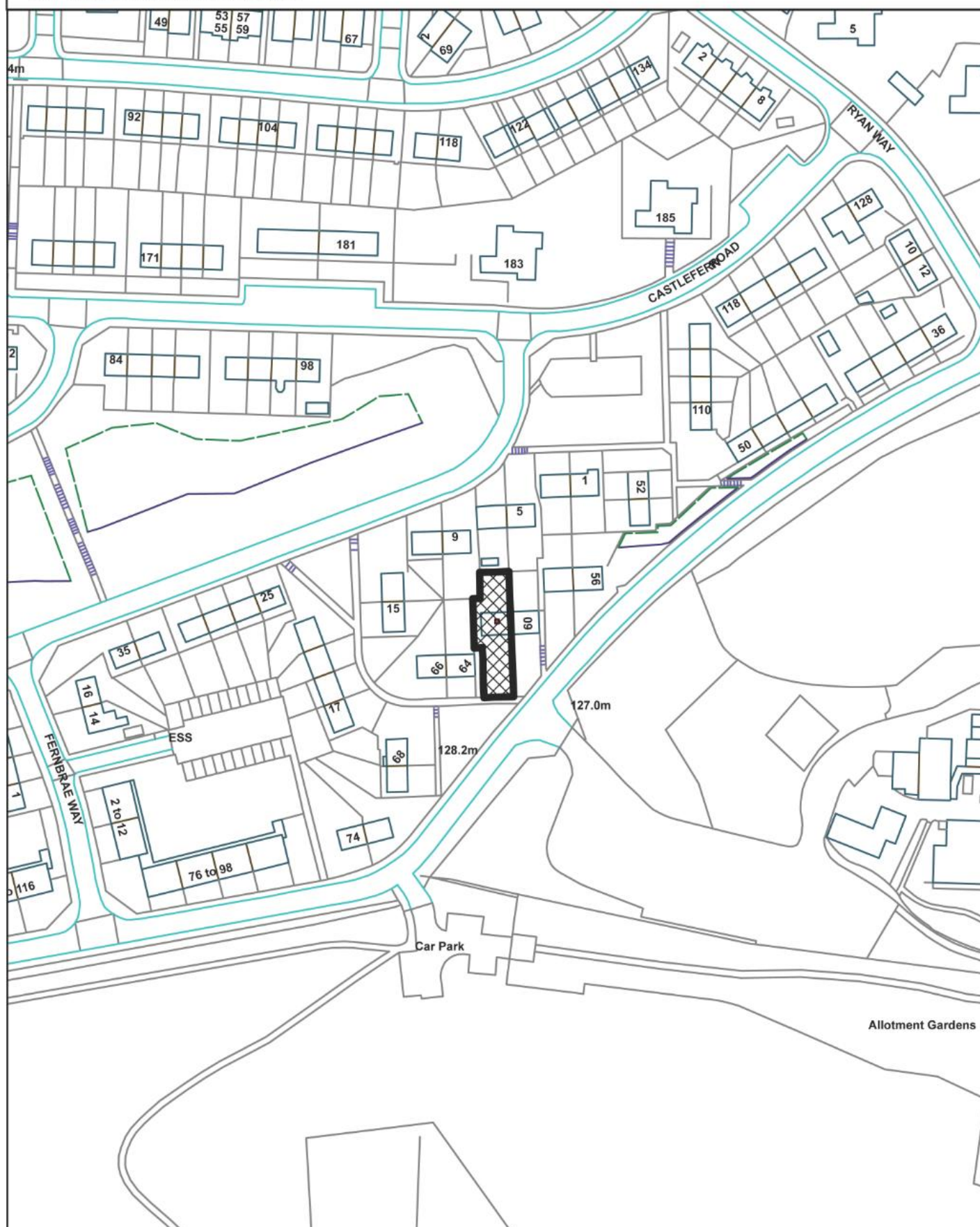
Reason: To ensure satisfactory integration of the proposed development with the existing building both in terms of design and materials.

02. That before any works commence on site, details of construction vehicle parking and materials access shall be submitted and approved by the Council, as Planning Authority.

Reason: In the interest of amenity and road safety.

P/21/0662

62 Fernbrae Avenue, Rutherglen



© Crown copyright and database rights 2019 OS 100020730. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:1,500  
Date:  
18/11/2021



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Economic Development





# Report

4

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/0332
Planning proposal:	Land Engineering / Remodelling Operations to Provide Hardstanding for External Storage and Distribution Purposes and Formation of Perimeter Landscaped Bund with Associated Land Drainage

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	Marshalls PLC
Location:	Marshalls PLC Roadmeetings Yieldshields Road Carluke ML8 4QG

## 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) If planning consent is granted, the Decision Notice for this application and P/21/0333, by the same applicant for a similar proposal at Marshalls PLC, should be withheld until a financial contribution of £10,072.50 has been paid for upgrading of the road surface of the B7056 (Yieldshields Road) from the entrance to Marshalls PLC to the junction with the A721 (Kilncadzow Road).

In accordance with agreed procedure, should there be no significant progress, on behalf of the applicant, towards making the payment within 6 months of the date of the Committee, the proposed development may be refused on the basis that, without the planning control/developer contribution which would be secured by the Planning Obligation, the proposed development would be unacceptable.

If, however, this matter is being progressed satisfactorily the applicant will be offered the opportunity to enter into a Processing Agreement, if this is not already in place. This will set an alternative agreed timescale for the conclusion of the Planning Obligation.

### 3 Other information

- ◆ Applicant's Agent: Paul Houghton MRTPI
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): SLDP2: Policy 3 General Urban Areas  
SLDP2: Policy 5 Development Management and Placemaking  
SLDP2: Policy 8 Employment  
SLDP2: Policy 15 Travel and Transport

#### ◆ Representation(s):

▶	0	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

#### ◆ Consultation(s):

Nature.Scot

The Coal Authority Planning and Local Authority Liaison

Roads Development Management Team

Environmental Services

Roads Flood Risk Management

Community and Enterprise Resources - Regeneration and Inclusion

## **Planning Application Report**

### **1 Application Site**

- 1.1 The site (1.99ha) is located to the west of Yieldshields Road and north of the A721 on vacant land lying adjacent to and within the landholding of Marshalls PLC, a company specialising in the manufacture and distribution of pavements. The site consists of a mixture of dense scrub and semi improved and marshy grassland. The adjacent plant to the south comprises offices, production buildings and hardstanding for parking and storage.

### **2 Proposal(s)**

- 2.1 Marshalls PLC is a major manufacturer of pavements whose plans include the consolidation of storage and distribution at their Carlisle plant after the closure of their distribution plant in Falkirk. The proposal is to extend the hardstanding area including ground remodelling and the creation of a landscaped bund. Hardstanding will be formed by imported material from the Abbington quarry and finished by porous pavements manufactured by the applicant. Because of the level difference between the existing site and adjoining land there will be a need to create a new slope and bund to support the hardstanding. The design for the Sustainable Urban Drainage System (SUDS) includes a surface water drainage ditch running along the base of the bund to a landscaped swale in the north-west corner of the site.
- 2.2 A Flood Risk and Drainage Assessment, Ecological Appraisal, Planning Statement, Noise Assessment, Preliminary Geo Environmental Desk Study and Transport Statement have been submitted as supporting information.

### **3 Background**

#### **3.1 Local Plan Status**

- 3.1.1 In determining this planning application, the Council must assess the proposed development against the policies contained within the adopted South Lanarkshire Local Development Plan 2 (SLDP2) (2021).
- 3.1.2 The site falls within the settlement boundary where Policy 3 – General Urban Areas and Settlements applies. Also applicable is Policy 8 – Employment as the site forms part of a designated Core Industrial and Business Area. In addition to these land use designations, Policies 5 – Development Management and Place Making and Policy 15 – Travel and Transport are of relevance to the determination of this application.

#### **3.2 Relevant Government Advice/Policy**

- 3.2.1 Scottish Planning Policy (SPP) highlights that the planning system should promote business and industrial activity that increases economic activity while safeguarding and enhancing the natural and built environment and give due weight to the net economic benefit of proposed development.

#### **3.3 Planning Background**

- 3.3.1 Planning Permission was granted: for extension to industrial building (CL/06/0789) in December 2006; for extension to existing production buildings (CL/08/0237) in June 2008 and for 2 enclosures above existing aggregate stores (CL/09/0335) in September 2009.
- 3.3.2 It should also be noted that running concurrently with this application and being considered by the Planning Committee is another similar application P/21/0333, submitted by the applicants for the extension of hardstanding and the creation of a landscaped bund along the north western boundary of their plant adjacent to the hardstanding proposed by this application.

## **4 Consultation(s)**

- 4.1 **Environmental Services** – No objection subject to conditions restricting noise levels, dust mitigation and informatives on construction noise, pest control and nuisance.  
**Response:** Noted. If consent is issued the requested conditions and informatives will be attached to the Decision Notice.
- 4.2 **NatureScot** – No response to date.  
**Response:** Noted.
- 4.3 **Roads and Transportation Services** – A visibility splay of 2.4m by 90m is required at the access. Information from cores taken on Yieldshields Road suggest the construction of the road is to a reasonable standard, however, it is slightly below what would be expected for a modern industrial road. A contribution of £10,072.50 has been calculated to offset the increase in anticipated maintenance costs. A Travel Plan would be in place to better manage the resultant increase in traffic and this should form a condition of any consent. The number of parking spaces would be set by the Travel Plan and the Framework sets out the proposed measures and methodology, which will contribute to enhancing the sustainability of the development. There is ample space within the site for parking.  
**Response:** Noted. If Planning Permission is granted conditions covering visibility and the submission and implementation of a Travel Plan will be attached. Also, the Decision Notice will not be released until the requested contribution has been paid for road upgrading works.
- 4.4 **Flood Unit** – No objection subject to completion of relevant appendices in the Developer Design Guidance.  
**Response:** Noted. If approval is granted appropriately worded conditions will be attached to the Decision Notice.
- 4.5 **Regeneration and Inclusion** – No response to date.  
**Response:** Noted.
- 4.6 **The Coal Authority** – The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the Local Planning Authority (LPA) for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted.  
**Response:** Noted.

## **5 Representation(s)**

- 5.1 In response to the advertisement of the application in the local press for non-notification of neighbours (it should be noted no notifiable properties with postal addresses fell within the notification cordon around the application site boundary) no letters of representation have been received.

## **6 Assessment and Conclusions**

- 6.1 The determining issues in the consideration of this application are its compliance with the adopted South Lanarkshire Local Development Plan 2 (SLLDP2).
- 6.2 The application site, forming part of the Marshalls PLC plant, lies within the Carluke settlement boundary where Policy 3 – General Urban Areas and Settlements advises that developments, particularly those considered to be “bad neighbour” uses which by virtue of visual impact, noise, smell, air pollution, disturbance, traffic or public safety will not be permitted if they are detrimental to the amenity of residents. However, each proposal will be judged on its own merits.

The nearest dwellings are 117m on the further side of the A721 and in between there are vacant ground. The hardstanding will be used purely for storage of paviments awaiting delivery so the only associated noise would relate to the stacking and uplift – there would be no other industrial process within the application site boundary. A Noise Assessment has been undertaken that concludes that noise levels associated with the proposal would not be significant. Environmental Services have not objected subject to conditions relating to noise abatement and dust mitigation. The proposal relates to an established industrial plant which has operated in the locality for many years without adverse impact upon the environment or residential amenity therefore it is considered acceptable under the terms of Policy 3.

- 6.3 The proposed development has also been considered against Policy 5 ‘Development Management and Place Making’. Proposals should not have a significant adverse impact on the local area and address the six qualities of placemaking. In addition, any new development must relate satisfactorily to adjacent and surrounding development in terms of scale, massing, materials, and intensity of use. The character and amenity of the area must not be impaired by reason of traffic generation, parking, noise, smell, air and light pollution, overshadowing, overlooking or visual intrusion. Development proposals shall include appropriate access, parking, landscape provision and Sustainable Drainage Systems (SUDS). Proposals shall have no unacceptable significant adverse impact on the natural and historic environment and have no adverse effect on the integrity of Natura 2000 sites.
- 6.4 This is an acceptable hardstanding extension to an established industrial plant – it will integrate into its industrial setting whilst the proposed landscaped bunds, mature woodland, trees and existing industrial buildings will help visually contain the storage area in the context of the surrounding locality. The development does not affect features of importance to landscape character and trees will be planted on the landscaped bund to compensate for the loss of scrub. Surface water run-off will be dealt with by a series of drainage ditches and a swale in accordance with the principles of SUDS. Amenity will not be compromised as the nearest dwellings are located a sufficient distance away. Conditions have been attached requiring noise emission limits, dust mitigation, tree planting, habitat management, tree protection, ecological surveys and nesting bird protection. Roads and Transportation Services have not raised any public or road safety concerns subject to financial contributions to cover road upgrading and a condition requiring the submission of a travel plan. There are no infrastructure constraints. In consideration, the proposal is an appropriate form and scale of development for this location and therefore complies with Policy 5.
- 6.5 The entire site and associated industrial plant is zoned as a Core Industrial and Business Area where Policy 8: Employment applies. This states that the Council will support sustainable economic growth by encouraging the development of business in South Lanarkshire, and that Core Industrial and Business Areas should primarily be reserved for conforming uses (Class 4, 5 and 6).
- 6.6 The Marshalls PLC plant is a long established Class 5 (General Industry) and pavement distribution centre (Class 6) business employing 45 staff, which is seeking to consolidate storage and distribution at the Carluke plant resulting in employee numbers increasing to 63 – this will include new staff recruited locally and relocated staff from their Falkirk branch which is due for closure. This will assist the business to grow at their Carluke operation, meet growing demand for paviments in the construction industry and provide continuity of employment. In view of these circumstances, it is considered that the proposal complies with Policy 8.

- 6.7 Policy 15 Travel and Transport states: The council expects active travel and the availability and/or provision of public transport facilities and access to be fundamental design and locational elements of new development. New development proposals should promote opportunities for travel by sustainable travel modes in the following order of priority – walking, cycling, public transport and car. Where appropriate, planning applications will be accompanied by an active travel plan that demonstrates this order of priority has been considered and includes proposals to reduce travel by car and encourage walking, cycling and public transport as alternative modes of transport. Proposals should also consider measures to mitigate the impact of increased traffic growth and have regard to the need to reduce air pollution and greenhouse gas emissions. Where appropriate, the Council will seek contributions from new developments towards the maintenance of public roads from operators of major mineral, waste and industrial (classes 4, 5 and 6) developments which are likely to create extraordinary wear and tear to the local road network. In certain circumstances the Council will require developers to prepare a Transport Assessment or Transport Statement (TS) prior to the assessment of any planning application.
- 6.8 A Transport Statement has been prepared that concludes that there will be no adverse impact upon the local road network. There are footways along the B7056 and the A721 – a large area of southwest Carluke is within acceptable walking distance of the plant. The whole of Carluke is within 25 minutes cycle to the site and the local road network, which is generally restricted to 30mph, is considered suitable for cycling. There are bus routes nearby and Carluke is served by a train station. A Framework for a Travel Plan has been set out with objectives for encouraging sustainable transport. If permission is granted, a condition requiring the submission and approval of a Travel Plan will be attached. There is sufficient space within the plant to accommodate anticipated parking needs. Road cores along the B7056 from the A721 to the access have been taken which demonstrate that the current construction of the road is to a reasonable standard, however, it is slightly below what would be expected for a modern industrial road which will be required to cope with increased heavy vehicle usage along it. The applicant has agreed to make a financial contribution to offset the increase in anticipated maintenance costs. Having considered the above, along with the scale, nature and location of the proposed development and noting the road improvements, it is considered that the proposal complies with Policy 15.
- 6.9 In summary, it is considered that the proposals for the hard standing extension are acceptable given they are associated with an existing large scale industrial plant. No letters of objection were received and no adverse comments from consultees, subject to conditions. In view of all of the above, the proposal represents an appropriate form of development for the site and therefore it is recommended that detailed planning permission is granted.

## **7 Reasons for Decision**

- 7.1 The application site is within a designated Core Industrial and Business Area where the proposal complies with Policy 8: Employment of the adopted South Lanarkshire Local Development Plan 2. There will not be an adverse impact on the landscape character of the area or on the residential amenity of Carluke and it complies with Policies 3: General Urban Areas and Settlements, 5: Development Management and Placemaking, and 15: Travel and Transport. The proposal will enable the applicant to consolidate manufacturing and distribution at its Carluke plant, generating employment opportunities and securing the long term future of the plant.

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

Date: 3 December 2021

**Previous references**

- ◆ CL/06/0789
- ◆ CL/08/0237
- ◆ CL/09/0335

**List of background papers**

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Ecological Appraisal (TETRA TECH, February 2021)
- ▶ Flood Risk and Drainage Assessment (TETRA TECH, February 2021)
- ▶ Transport Statement (TETRA TECH, February 2021)
- ▶ Planning Statement (DM Hall, February 2021)

▶ Consultations

Nature.Scot

The Coal Authority Planning and Local Authority Liaison 05.03.2021

Roads Development Management Team 12.05.2021

Environmental Services 09.04.2021

Roads Flood Risk Management 24.09.2021

Community and Enterprise Resources - Regeneration and  
Inclusion

▶ Representations: None

**Contact for further information**

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

Ian Hamilton, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455174

Email: [ian.hamilton@southlanarkshire.gov.uk](mailto:ian.hamilton@southlanarkshire.gov.uk)

### Conditions and reasons

01. 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.

Reason: In the interests of amenity and to ensure the protection and maintenance of the existing trees within the site.

02. Prior to the commencement of the development hereby approved (including any demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Council as Planning Authority. Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) A full specification for the installation of boundary treatment works.
- e) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) A specification for scaffolding and ground protection within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- j) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- k) Boundary treatments within the RPA
- l) Methodology and detailed assessment of root pruning
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist
- n) Reporting of inspection and supervision
- o) Methods to improve the rooting environment for retained and proposed trees and landscaping
- p) Veteran and ancient tree protection and management.

The development shall thereafter be implemented in strict accordance with the approved details.



Reason: To ensure that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.

03. That the landscaping scheme as shown on the approved plan shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following the completion of the development hereby approved 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.

04. 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 Developer Design Guidance (May 2020) and shall include the following signed appendices: C 'Sustainable Drainage Design Compliance certificate' and; E 'Confirmation of Future Maintenance of Sustainable Drainage Apparatus' . The development shall not be occupied until the surface drainage works have been completed in accordance with the details submitted to and approved in writing by the Council as Planning Authority.

Reason: 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.

05. That no further development shall take place until a flood risk assessment has been carried out in accordance with the latest industry guidance, including a completed and signed copies of Appendices A 'Flood Risk Assessment Compliance Certificate' of the Council's Developer Design Guidance (May 2020) to be submitted and approved by the Council as Planning and Flood Authority.

Reason: In order to ensure the risk of flooding to the application site from any source is at an acceptable level as defined in the Scottish Planning Policy and there is no increase in the future of flood risk to adjacent land as a result of the proposed development.

06. That no development shall commence until a Travel Plan to encourage sustainable travel has been submitted for approval and thereafter the recommendations of the approved Travel Plan shall be fully implemented to the satisfaction of the Council as Planning and Roads Authority.

Reasons: In the interests of sustainable travel and to manage increases in traffic.

07. That before the development hereby approved is completed or brought into use, a visibility splay of 2.4 metres by 90 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.

Reason: In the interests of traffic and public safety.

08. Between the hours of 08:00 and 20:00 the measured noise rating level emitted from the premises (LAeq,1hr) shall not exceed the pre-existing background noise level (LA90,30 min) by more than 4dB when measured in accordance with British Standard BS 4142:2014 - Method for Rating and Assessing Industrial and Commercial Sound at buildings where people are likely to be affected. Between the hours of 20:00 and 08:00 the noise rating level emitted from the premises (LAeq,15min) shall not exceed the pre-existing background noise level (LA90,30min) by more than 4dB when measured in accordance with BS4142:2014 at buildings where people are likely to be affected.

All lifts and/or hoists, including doors, guide rails and ancillary plant and machinery, as well as mechanical air handling/ air conditioning plant and ducted systems, shall be suitably isolated from the structure of the building to minimise transmission of noise and vibration to adjacent dwellings/premises.

Reason: To minimise noise disturbance to local residents.

09. At buildings where people are likely to be affected the internal noise levels shall comply with BS 8233:2014 Guidance on sound insulation and noise reduction for buildings as follows:-
- a) The internal levels with windows open (or under exceptional circumstances closed) do not exceed an LAeq,16hr of 40dB daytime (07:00 - 23:00)
  - b) The internal levels with windows open (or under exceptional circumstances closed) do not exceed an LAeq,8hr of 30dB night-time (23:00 - 07:00).
  - c) The internal levels with windows open (or under exceptional circumstances closed) do not exceed an LA,max of 45dB night-time (23:00 - 07:00).

Reason: To minimise noise disturbance to local residents.

10. The Internal Noise Rating Values, within any residential property and resultant from the proposed development, shall not exceed-
- o NR25 between 23.00hrs and 08.00hrs
  - o NR35 between 08.00hrs and 23.00hrs.

Reason: To minimise noise disturbance to local residents.

11. Prior to development commencing on site, a scheme for the control and mitigation of dust shall be submitted to and approved in writing by the Council as Planning Authority. No changes to the approved scheme shall take place unless agreed in writing by the Council as Planning Authority. The scheme shall thereafter be implemented in accordance with a programme to be agreed in writing with the Council as Planning Authority.

Reason: To protect local residents and properties from dust.

12. That the recommendations/ guidance as set down in Chapters 5 and 6 of the Ecological Appraisal (TETRA TECH, February 2021) in respect of further surveys, enhancement, mitigation including otters, bats and breeding bird surveys, nest protection, landscaping, invasive non-native plant species and Stage 1 Habitats Regulations Appraisal Screening Assessment shall be fully complied with.

Reason: In the interests of wildlife and biodiversity.

13. That details of a Habitat and Landscape Management Plan shall be submitted for approval and thereafter the approved plan shall be implemented to the satisfaction of the Council as Planning Authority.

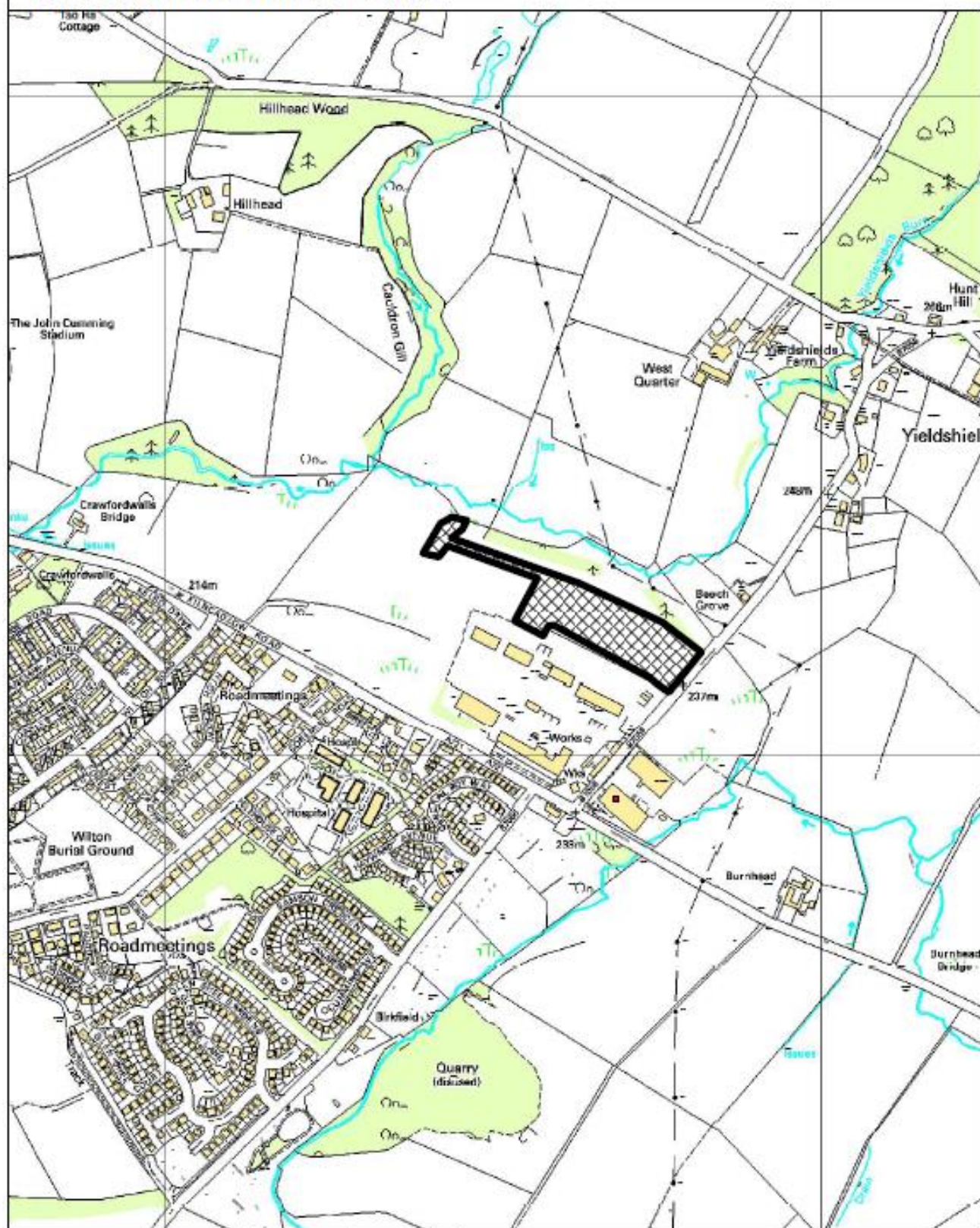
Reason: In the interests of wildlife and biodiversity.

14. That details of an Ecological Construction Environment Management Plan shall be submitted for approval and thereafter the approved plan shall be implemented to the satisfaction of the Council as Planning Authority.

Reason: In the interests of wildlife and biodiversity.

P/21/0332

Marshall's PLC, Roadmeetings, Yieldshields Road



© Crown copyright and database rights 2019 OS 100020730. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:8,000  
Date:  
18/11/2021



South Lanarkshire Council  
Community and Enterprise Resources  
Planning and Economic Development

# Report

5

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/0333
Planning proposal:	Land Engineering / Remodelling Operations to Provide Hardstanding for External Storage and Distribution Purposes and Formation of Perimeter Landscaped Bund with Associated Land Drainage

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	Marshalls PLC
Location:	Marshalls PLC Roadmeetings Yieldshields Road Carluke ML8 4QG

## 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) If planning consent is granted, the Decision Notice for this application and P/21/0332, by the same applicant for a similar proposal at Marshalls PLC, should be withheld until a financial contribution of £10,072.50 has been paid for upgrading of the road surface of the B7056 (Yeildsheilds Road) from the entrance to Marshalls Plc to the junction with the A721 (Kilncadzow Road).

In accordance with agreed procedure, should there be no significant progress, on behalf of the applicant, towards making the payment within 6 months of the date of the Committee, the proposed development may be refused on the basis that, without the planning control/developer contribution which would be secured by the Planning Obligation, the proposed development would be unacceptable.

If, however, this matter is being progressed satisfactorily the applicant will be offered the opportunity to enter into a Processing Agreement, if this is not already in place. This will set an alternative agreed timescale for the conclusion of the Planning Obligation.

### 3. Other information

- ◆ Applicant's Agent: Paul Houghton MRTPI
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): SLDP2: Policy 3 General Urban Areas  
SLDP2: Policy 5 Development Management and Placemaking  
SLDP2: Policy 8 Employment  
SLDP2: Policy 15 Travel and Transport

#### ◆ Representation(s):

▶	0	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

#### ◆ Consultation(s):

Scottish Natural Heritage - Use Nature.Scot

Roads Development Management Team

Environmental Services

Roads Flood Risk Management

Community and Enterprise Resources Regeneration and Inclusion

## **Planning Application Report**

### **1. Application Site**

- 1.1 The site (1.99ha) is located to the west of Yeildsheilds Road and north of the A721 on vacant land lying adjacent to and within the landholding of Marshalls PLC, a company specialising in the manufacture and distribution of pavements. The site consists of a mixture of dense scrub and semi improved and marshy grassland. The adjacent plant to the south comprises offices, production buildings and hardstanding for parking and storage.

### **2. Proposal(s)**

- 2.1 Marshalls PLC is a major manufacturer of pavements whose plans include the consolidation of storage and distribution at their Carlisle plant after the closure of their distribution plant in Falkirk. The proposal is to extend the hardstanding area including ground remodelling and the creation of a landscaped bund. Hardstanding will be formed by imported material from the Abbington quarry and finished by porous pavements manufactured by the applicant. Because of the level difference between the existing site and adjoining land there will be a need to create a new slope and bund to support the hardstanding. The design for the Sustainable Urban Drainage System (SUDS) includes a surface water drainage ditch running along the base of the bund to a landscaped swale in the north west corner of the site.
- 2.2 A Flood Risk and Drainage Assessment, Ecological Appraisal, Planning Statement, Noise Assessment, Preliminary Geo Environmental Desk Study and Transport Statement have been submitted as supporting information.

### **3. Background**

#### **3.1 Local Plan Status**

- 3.1.1 In determining this planning application, the Council must assess the proposed development against the policies contained within the adopted South Lanarkshire Local Development Plan (SLDP2) (2021).
- 3.1.2 The site falls within the settlement boundary where Policy 3 – General Urban Areas and Settlements applies. Also applicable is Policy 8 – Employment as the site forms part of a designated Core Industrial and business area. In addition to these land use designations, Policies 5 – Development Management and Place Making and 15 – Travel and Transport are of relevance to the determination of this application.

#### **3.2 Relevant Government Advice/Policy**

- 3.2.1 Scottish Planning Policy (SPP) advises that the planning system should promote business and industrial activity that increases economic activity while safeguarding and enhancing the natural and built environment and give due weight to the net economic benefit of proposed development.

#### **3.3 Planning Background**

- 3.3.1 Planning Permission was granted: for extension to industrial building (CL/06/0789) in December 2006; for extension to existing production buildings (CL/08/0237) in June 2008 and for 2 enclosures above existing aggregate stores (CL/09/0335) in September 2009.
- 3.3.2 It should also be noted running concurrently with this application and being considered by the Planning Committee is another similar application P/21/0332, submitted by the applicants for the extension of hardstanding and the creation of a landscaped bund



along the north eastern boundary of their plant adjacent to the hardstanding proposed by this application.

#### **4. Consultation(s)**

- 4.1 **Environmental Services** – No objection subject to conditions restricting noise levels, dust mitigation and informatives on construction noise, pest control and nuisance.

**Response:** Noted. If approval is granted the requested conditions and informatives will be attached to the Decision Notice.

- 4.2 **NatureScot** – No response to date.

**Response:** Noted.

- 4.3 **Roads and Transportation Services** – A visibility splay of 2.4m by 90m is required at the access. Information from cores taken on Yieldshields Road suggest the construction of the road is to a reasonable standard, however, it is slightly below what would be expected for a modern industrial road. A contribution of £10,072.50 has been calculated to offset the increase in anticipated maintenance costs. A Travel Plan would be in place to better manage the resultant increase in traffic and this should form a condition of any consent. The number of parking spaces would be set by the Travel Plan and the Framework sets out the proposed measures and methodology, which will contribute to enhancing the sustainability of the development. There is ample space within the site for parking.

**Response:** Noted. If Planning Permission is granted conditions covering visibility and the submission and implementation of a Travel Plan will be attached. Also, a Decision Notice will not be released until the requested contribution has been paid for road upgrading works.

- 4.4 **Flood Unit** – No objection subject to completion of relevant appendices in the Developer Design Guidance.

**Response:** Noted. If approval is granted appropriately worded conditions will be attached to the Decision Notice.

- 4.5 **Regeneration and Inclusion** – No response to date.

**Response:** Noted.

#### **5. Representation(s)**

- 5.1 In response to the advertisement of the application in the local press for non-notification of neighbours (it should be noted no notifiable properties with postal addresses fell within the notification cordon around the application site boundary) no letters of representation have been received.

#### **6. Assessment and Conclusions**

- 6.1 The determining issues in the consideration of this application are its compliance with the adopted South Lanarkshire Local Development Plan 2 (SLLDP2).

- 6.2 The application site, forming part of the Marshalls PLC plant, lies within the Carluke settlement boundary where Policy 3 – General Urban Areas and Settlements advises that developments, particularly those considered to be “bad neighbour” uses which by virtue of visual impact, noise, smell, air pollution, disturbance, traffic or public safety will not be permitted if they are detrimental to the amenity of residents. However, each proposal will be judged on its own merits. The nearest dwellings are 95.91m on the further side of the A721 and in between there is vacant ground. The hardstanding will be used purely for storage of pavements awaiting delivery so the only associated noise would relate to the stacking and uplift – there would be no other industrial process within the application site boundary. A Noise Assessment has been undertaken that



concludes that noise levels associated with the proposal would not be significant. Environmental Services have not objected subject to conditions relating to noise abatement and dust mitigation. The proposal relates to an established industrial plant which has operated in the locality for many years without adverse impact upon the environment or residential amenity, therefore, it is considered acceptable under the terms of Policy 3.

- 6.3 The proposed development has also been considered against Policy 5 'Development Management and Place Making'. Proposals should not have a significant adverse impact on the local area and address the six qualities of placemaking. In addition, any new development must relate satisfactorily to adjacent and surrounding development in terms of scale, massing, materials, and intensity of use. The character and amenity of the area must not be impaired by reason of traffic generation, parking, noise, smell, air and light pollution, overshadowing, overlooking or visual intrusion. Development proposals shall include appropriate access, parking, landscape provision and Sustainable Drainage Systems (SUDS). Proposals shall have no unacceptable significant adverse impact on the natural and historic environment and have no adverse effect on the integrity of Natura 2000 sites. This is an acceptable hardstanding extension to an established industrial plant – it will integrate into its industrial setting whilst the proposed landscaped bunds, mature woodland and existing industrial buildings will help visually contain the storage area in the context of the surrounding locality. The development does not affect features of importance to landscape character and trees will be planted on the landscaped bund to compensate for the loss of scrub. Surface water run-off will be dealt with by a series of drainage ditches and a swale in accordance with the principles of SUDS. Amenity will not be compromised as the nearest dwellings are located a sufficient distance away. Conditions have been attached requiring noise emission limits, tree planting, habitat management, tree protection, ecological surveys and nesting bird protection. Roads and Transportation Services have not raised any public or road safety concerns subject to financial contributions to cover road upgrading and a condition requiring the submission of a travel plan. There are no infrastructure constraints. In consideration, the proposal is an appropriate form and scale of development for this location and, therefore, complies with Policy 5.
- 6.4 The entire site and associated industrial plant is zoned as a Core Industrial and Business Area where Policy 8: Employment applies. This states that the Council will support sustainable economic growth by encouraging the development of business in South Lanarkshire, and that Core Industrial and Business Areas should primarily be reserved for conforming uses (Class 4, 5 and 6). The Marshalls PLC plant is a long established Class 5 (General Industry) and paviour distribution centre (Class 6) business employing 45 staff, which is seeking to consolidate storage and distribution at the Carluke plant resulting in employees numbers increasing to 63 – this will include new staff recruited locally and relocated staff from their Falkirk branch which is due for closure. This will assist the business to grow at their Carluke operation, meet growing demand for paviments in the construction industry and provide continuity of employment. In view of these circumstances, it is considered that the proposal complies with Policy 8.
- 6.5 Policy 15 Travel and Transport states: The council expects active travel and the availability and/or provision of public transport facilities and access to be fundamental design and locational elements of new development. New development proposals should promote opportunities for travel by sustainable travel modes in the following order of priority – walking, cycling, public transport and car. Where appropriate, planning applications will be accompanied by an active travel plan that demonstrates this order of priority has been considered and includes proposals to reduce travel by

car and encourage walking, cycling and public transport as alternative modes of transport. Proposals should also consider measures to mitigate the impact of increased traffic growth and have regard to the need to reduce air pollution and greenhouse gas emissions. Where appropriate, the Council will seek contributions from new developments towards the maintenance of public roads from operators of major mineral, waste and industrial (classes 4, 5 and 6) developments which are likely to create extraordinary wear and tear to the local road network. In certain circumstances the Council will require developers to prepare a Transport Assessment or Transport Statement (TS) prior to the assessment of any planning application.

- 6.6 A Transport Statement has been prepared that concludes that there will be no adverse impact upon the local road network. There are footways along the B7056 and the A721 – a large area of southwest Carluke is within acceptable walking distance of the plant. The whole of Carluke is within 25 minutes cycle to the site and the local road network, which is generally restricted to 30mph, is considered suitable for cycling. There are bus routes nearby and Carluke is served by a train station. A Framework for a Travel Plan has been set out with objectives for encouraging sustainable transport. If permission is granted, a condition requiring the submission and approval of a Travel Plan will be attached. There is sufficient space within the plant to accommodate anticipated parking needs. Road cores along the B7056 from the A721 to the access have been taken – these cores demonstrate that the current construction of the road is to a reasonable standard, however, it is slightly below what would be expected for a modern industrial road which will be required to cope with increased heavy vehicle usage along it. The applicant has agreed to make a financial contribution to offset the increase in anticipated maintenance costs. Having considered the above, along with the scale, nature and location of the proposed development and noting the road improvements, it is considered that the proposal complies with Policy 15.
- 6.7 In summary, it is considered that the proposals for the hard standing extension are acceptable given they are associated with an existing large scale industrial plant. No letters of objection were received and no adverse comments from consultees, subject to conditions. In view of all of the above, the proposal represents an appropriate form of development for the site and, therefore, it is recommended that detailed planning permission is granted.

## **7. Reasons for Decision**

- 7.1 The application site is within a designated Core Industrial and Business Area where the proposal complies with Policy 8: Employment of the adopted South Lanarkshire Local Development Plan<sup>2</sup>. There will not be an adverse impact on the landscape character of the area or on the residential amenity of Carluke and it complies with Policies 3: General Urban Areas and Settlements, 5: Development Management and Placemaking, and 15: Travel and Transport. The proposal will enable the applicant to consolidate manufacturing and distribution at its Carluke plant, generating employment opportunities and securing the long term future of the plant.

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

Date: 3 December 2021

### **Previous references**

- ◆ CL/06/0789
- ◆ CL/08/0237
- ◆ CL/09/0335

### **List of background papers**

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated
  
- ▶ Consultations
  - Scottish Natural Heritage - Use Nature.Scot
  - Roads Development Management Team 12.05.2021
  - Environmental Services 09.04.2021
  - Roads Flood Risk Management 24.09.2021
  - Community and Enterprise Resources Regeneration and Inclusion
  
- ▶ Representations
  - None

### **Contact for further information**

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

Ian Hamilton,  
Planning Officer,  
Montrose House,  
154 Montrose Crescent,  
Hamilton, ML3 6LB  
Phone: 01698 455174  
Email: [ian.hamilton@southlanarkshire.gov.uk](mailto:ian.hamilton@southlanarkshire.gov.uk)

## Conditions and reasons

01. 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.

Reason: In the interests of amenity and to ensure the protection and maintenance of the existing trees within the site.

02. Prior to the commencement of the development hereby approved (including any demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Council as Planning Authority. Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) A full specification for the installation of boundary treatment works.
- e) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) A specification for scaffolding and ground protection within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- j) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- k) Boundary treatments within the RPA
- l) Methodology and detailed assessment of root pruning
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist
- n) Reporting of inspection and supervision
- o) Methods to improve the rooting environment for retained and proposed trees and landscaping
- p) Veteran and ancient tree protection and management.

The development shall thereafter be implemented in strict accordance with the approved details.

Reason: To ensure that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.

03. That the landscaping scheme as shown on the approved plan shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following the completion of the development hereby approved 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.

04. 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 Developer Design Guidance (May 2020) and shall include the following signed appendices: C 'Sustainable Drainage Design Compliance certificate' and; E 'Confirmation of Future Maintenance of Sustainable Drainage Apparatus' . The development shall not be occupied until the surface drainage works have been completed in accordance with the details submitted to and approved in writing by the Council as Planning Authority.

Reason: 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.

05. That no further development shall take place until a flood risk assessment has been carried out in accordance with the latest industry guidance, including a completed and signed copies of Appendices A 'Flood Risk Assessment Compliance Certificate' of the Council's Developer Design Guidance (May 2020) to be submitted and approved by the Council as Planning and Flood Authority.

Reason: In order to ensure the risk of flooding to the application site from any source is at an acceptable level as defined in the Scottish Planning Policy and there is no increase in the future of flood risk to adjacent land as a result of the proposed development.

06. That no development shall commence until a Travel Plan to encourage sustainable travel has been submitted for approval and thereafter the recommendations of the approved Travel Plan shall be fully implemented to the satisfaction of the Council as Planning and Roads Authority.

Reasons: In the interests of sustainable travel and to manage increases in traffic.

07. That before the development hereby approved is completed or brought into use, a visibility splay of 2.4 metres by 90 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.

Reason: In the interests of traffic and public safety.

08. Between the hours of 08:00 and 20:00 the measured noise rating level emitted from the premises (LAeq,1hr) shall not exceed the pre-existing background noise level (LA90,30 min) by more than 4dB when measured in accordance with British Standard BS 4142:2014 - Method for Rating and Assessing Industrial and Commercial Sound at buildings where people are likely to be affected. Between the hours of 20:00 and 08:00 the noise rating level emitted from the premises (LAeq,15min) shall not exceed the pre-existing background noise level (LA90,30min) by more than 4dB when measured in accordance with BS4142:2014 at buildings where people are likely to be affected.

All lifts and/or hoists, including doors, guide rails and ancillary plant and machinery, as well as mechanical air handling/ air conditioning plant and ducted systems, shall be suitably isolated from the structure of the building to minimise transmission of noise and vibration to adjacent dwellings/premises.

Reason: To minimise noise disturbance to local residents.

09. At buildings where people are likely to be affected the internal noise levels shall comply with BS 8233:2014 Guidance on sound insulation and noise reduction for buildings as follows-

- a) The internal levels with windows open (or under exceptional circumstances closed) do not exceed an LAeq,16hr of 40dB daytime (07:00 - 23:00)
- b) The internal levels with windows open (or under exceptional circumstances closed) do not exceed an LAeq,8hr of 30dB night-time (23:00 - 07:00).
- c) The internal levels with windows open (or under exceptional circumstances closed) do not exceed an LA,max of 45dB night-time (23:00 - 07:00).

Reason: To minimise noise disturbance to local residents.

10. The Internal Noise Rating Values, within any residential property and resultant from the proposed development, shall not exceed-
- o NR25 between 23.00hrs and 08.00hrs
  - o NR35 between 08.00hrs and 23.00hrs.

Reason: To minimise noise disturbance to local residents.

11. Prior to development commencing on site, a scheme for the control and mitigation of dust shall be submitted to and approved in writing by the Council as Planning Authority. No changes to the approved scheme shall take place unless agreed in writing by the Council as Planning Authority. The scheme shall thereafter be implemented in accordance with a programme to be agreed in writing with the Council as Planning Authority.

Reason: To protect local residents and properties from dust.

12. That the recommendations/ guidance as set down in Chapters 5 and 6 of the Ecological Appraisal (TETRA TECH, February 2021) in respect of further surveys, enhancement, mitigation including otters, bats and breeding bird surveys, nest protection, landscaping, invasive non-native plant species and Stage 1 Habitats Regulations Appraisal Screening Assessment shall be fully complied with.

Reason: In the interests of wildlife and biodiversity.

13. That details of a Habitat and Landscape Management Plan shall be submitted for approval and thereafter the approved plan shall be implemented to the satisfaction of the Council as Planning Authority.

Reason: In the interests of wildlife and biodiversity.

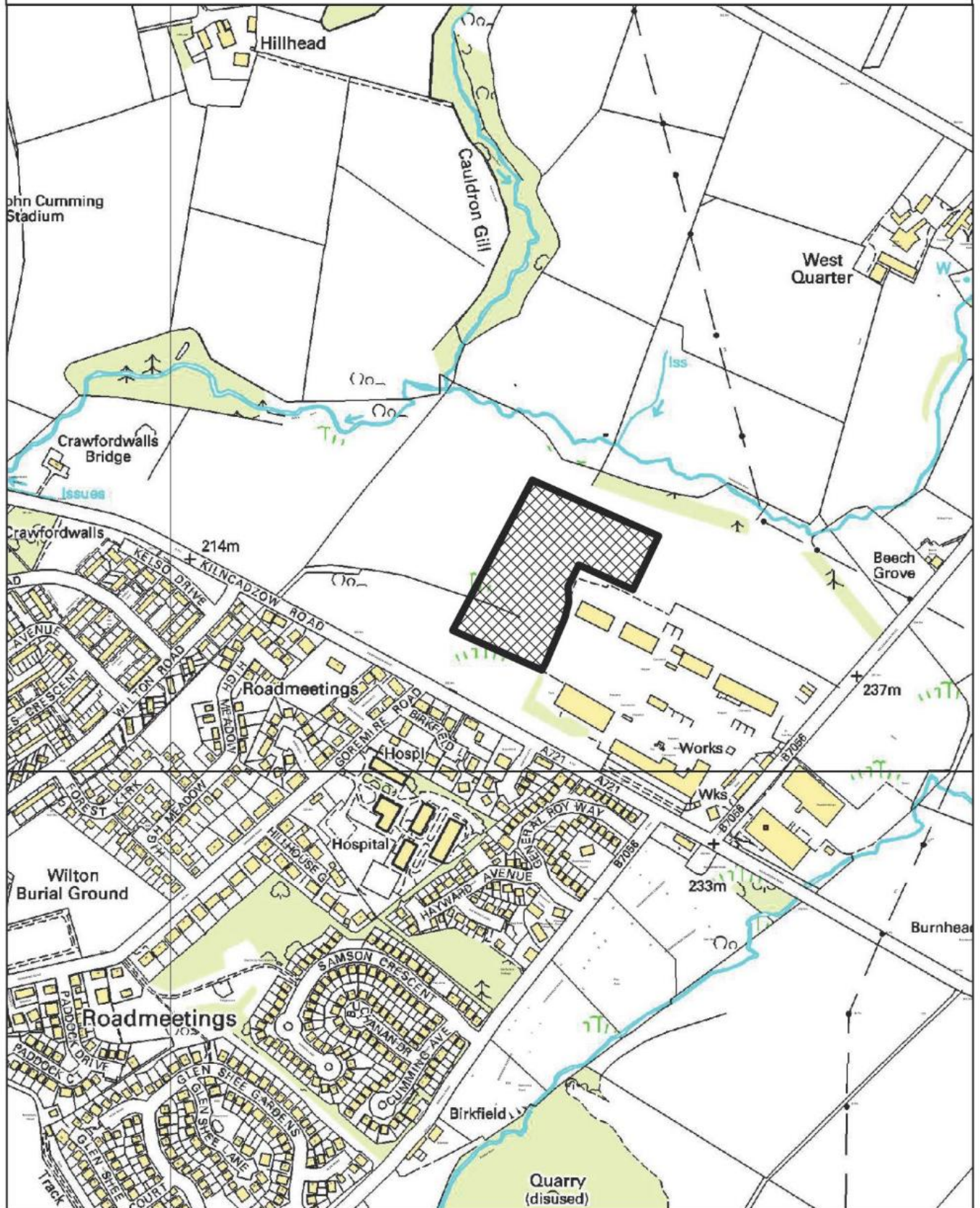
14. That details of an Ecological Construction Environment Management Plan shall be submitted for approval and thereafter the approved plan shall be implemented to the satisfaction of the Council as Planning Authority.

Reason: In the interests of wildlife and biodiversity.



P/21/0333

Marshalls PLC, Roadmeetings, Yieldshields Road



© Crown copyright and database rights 2019 OS 100020730. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:6,000  
Date:  
18/11/2021



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Economic Development



# Report

6

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/1525
Planning proposal:	Construction and Operation of a Battery Energy Storage System for the Storage of Electricity, Including up to 24 Battery Storage Containers, Ancillary Infrastructure, Substation, Access Road, 2.4 Metre High Security Fencing, CCTV and Security Lighting

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	EcoDev Group
Location:	Land 70M Southwest of Sanmex Buildings Downiebrae Road Rutherglen

## 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.

## 3 Other information

- ◆ Applicant's Agent: AE Associates
- ◆ Council Area/Ward: 12 Rutherglen Central and North
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2 (Adopted 2021)**  
 Policy 1 Spatial Strategy  
 Policy 2 Climate Change  
 Policy 3 General Urban Areas and Settlements  
 Policy 5 Development Management and Placemaking  
 Policy 8 Employment  
 Policy 15 Travel and Transport  
 Policy 16 Water Environment and Flooding  
 Policy 18 Renewable Energy  
 Policy SDCC2 Flood Risk  
 Policy SDCC3 Sustainable Drainage Systems  
 Policy ICD2 Non-conforming Uses in Core Industrial/ Business Areas

◆ **Representation(s):**

▶	8	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

◆ **Consultation(s):**

Rutherglen Community Council

Roads Development Management Team

Environmental Services

Roads Flood Risk Management

Scottish Water

SEPA West Region

West of Scotland Archaeology Service

SEPA Flooding

Scottish Power Energy Network

Clyde Gateway

## **Planning Application Report**

### **1 Application Site**

- 1.1 The application site is located to the east of Dalmarnock Road and south of Downiebrae Road in Rutherglen and extends to 0.4 hectares in area. The River Clyde is to the north of the site with the Dalmarnock to Rutherglen railway line some 450 metres west of the site. The site itself sits wholly within the former Sanmex industrial complex which has now been demolished and the site is currently an area of vacant, brownfield land. Approximately 150 metres southeast of the application site lies the Scottish Power Energy Networks (SPEN) Dalmarnock Grid Supply Point.
- 1.2 The site is currently accessed via an existing internal roadway taken directly off Downiebrae Road. The application site is located on land designated as a Core Industrial and Business Area within the South Lanarkshire Local Development Plan 2 (2021).

### **2 Proposal(s)**

- 2.1 Detailed planning permission is sought for the construction and operation of a Battery Energy Storage System for the storage of electricity, including up to 24 battery storage containers, ancillary infrastructure, substation, access road, 2.4 m high security fencing, CCTV and security lighting. Access is to be taken from the existing internal access road noted in 1.2 above and 4 parking spaces within the site are proposed. The proposed battery is to have a storage capacity of approximately 40 Mega Watts (MW). The site would be secure and includes equipment to allow 24 hour monitoring of the batteries remotely with approximately one routine, maintenance visit a month.
- 2.2 The application has advised that the proposed batteries are to allow for the storage of energy at times when generating stations are working at full capacity which can then be released when additional power is needed within the grid during peak times or when energy generation has dropped. As more energy sources are now renewable, such as wind and solar, balancing generation versus demand is a critical issue for grid stability. Battery storage allows energy to be stored during peak renewable generation periods and allows it to be released when demand outstrips generation. In short, the proposed battery takes in generated electricity when there is a surplus and stores it until there is a demand for electricity which can be released to meet this demand. The proposed batteries would be fed from and transmit back to the existing Dalmarnock Grid Supply Point.
- 2.3 It should be noted that whilst the energy stored within the batteries will be from all available sources, renewable energy production has the most variable rates of output and therefore, whilst the electricity transmitted to the batteries may not solely be renewable, it's storage and subsequent release when needed is considered to meet the need for grid stability due to the further reliance on renewable energy. It is therefore considered that in essence the battery storage can be classed as renewable electricity infrastructure given the increased need for grid stability as renewable energy generation increases.

### **3 Background**

#### **3.1 National Policy**

- 3.1.1 National Planning Framework 3 (NPF3) June 2014 sets out the long-term vision for the development of Scotland and is the spatial expression of the Scottish Government's Economic Strategy. It has a focus on supporting sustainable economic growth which respects the quality of the environment, place and life in Scotland and the transition to a low carbon economy. The framework sets out strategic outcomes aimed at supporting the vision – a successful, sustainable place, a low carbon place,

a natural, resilient place and a connected place. NPF 3 also notes in paragraph 3.8 “We want to meet at least 30% of overall energy demand from renewables by 2020”.

3.1.2 Scottish Planning Policy (SPP) June 2014 aligns itself with NPF3 and one of its policy principles states that “This SPP introduces a presumption in favour of development that contributes to sustainable development”. At paragraph 28, SPP states that “the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.” The SPP also identifies a number of considerations to be taken into account when determining energy infrastructure developments including net economic benefit, the contribution to renewable energy targets, cumulative impacts, visual impacts, residential amenity, and landscape and visual impacts (paragraph 169).

3.1.3 As noted in 2.3 above, the proposals would aid grid stability as renewable energy generation increases. It is therefore considered that, subject to the detailed assessment against the Development Plan criteria as set out in Section 6 below, the principle of the development accords with National Policy.

### 3.2 **Development Plan Status**

3.2.1 The proposed development requires to be considered against the approved Glasgow and Clyde Valley Strategic Development Plan 2017 (GCVSDP). The GCVSDP is a high level, strategic document and it is considered that proposals of this scale would not have any strategic implications within the Strategic Development Plan Area. As such there is no detailed assessment of the proposals against this strategic Plan.

3.2.2 Following formal adoption on 9 April 2021, the proposals are required to be assessed against the South Lanarkshire Local Development Plan 2 (SLLDP2).

In this regard, the application site and associated proposal is affected by the following policies contained in SLLDP2:-

#### Volume 1

1. Policy 1 Spatial Strategy
2. Policy 2 Climate Change
3. Policy 3 General Urban Areas
4. Policy 8 Employment
5. Policy 15 Travel and Transport
6. Policy 16 Water Environment and Flooding
7. Policy 18 Renewable Energy

#### Volume 2

1. Policy SDCC2 Flood Risk
2. Policy SDCC3 Sustainable Drainage Systems
3. Policy DM1 New Development Design
4. Policy ICD2 Non-conforming Uses in Core Industrial/ Business Areas
5. Policy RE1 Renewable Energy
6. Policy DM17 Air Quality

### 3.3 **Planning Background**

3.3.1 On 27 August 2020, the Scottish Government’s Chief Planner issued a letter in relation to electricity storage and the consenting regime. In this letter the Chief Planner stated

that the Scottish Government considers that a battery installation generates electricity and is therefore to be treated as a generating station.

- 3.3.2 In light of this statement and due to the fact the current proposals have a capacity of over 20MW, they are considered to be classed as a Major application within the Electricity Generation category of the Hierarchy of Development. As such, the applicant carried out the statutory Pre-Application Consultation (Planning Ref: P/21/0008/PAN) required for Major applications. The current application submission includes the required Pre-application Consultation Report following this consultation procedure.
- 3.3.3 Prior to submission of the current application, the applicant submitted an Environmental Impact Assessment (EIA) Screening request to ascertain whether the proposals would constitute an EIA development (Planning Ref: P/21/0312). Following assessment, the Council, as Competent Authority, issued a screening opinion stating that the proposals did not constitute an EIA development.
- 3.3.4 In March 2016, the Planning Committee granted planning permission in principle (Planning Ref: CR/15/0040) for a mixed use development comprising Class 1 retail, hot food takeaways, Class 3 restaurant and Class 11 leisure on the former Sanmex site. This permission includes the current application site and a larger area of now vacant land. The permission is only in principle and requires the further approval of matters specified by condition which would dictate the exact detail and design of the use classes approved as well as other aspects such as parking layout. This permission was renewed through an application made under Section 42 of the Town and Country Planning Act (Planning Ref: P/19/0307) which was granted on 8 April 2019.
- 3.3.5 Whilst every application is assessed on its own merits and the above referenced planning permission in principle (hereon referred to as the PPP) requires further approval before it could be implemented, it has been considered prudent to include an assessment of the current proposals against this permission as part of the planning assessment set out within Section 6 below.

#### **4 Consultation(s)**

- 4.1 **Roads Development Management** – originally requested additional details of the internal road layout. Following receipt of these details, offered no objections to the proposals subject to conditions relating to the construction of the access road in relation to preventing surface water or deleterious material running onto or entering the public road and the further agreement of a Construction Traffic Management Plan (CTMP), including details of access and parking for staff and visitors, working hours, management of deliveries and wheelwashing facilities.  
**Response:** Noted. Appropriate conditions can be attached to any consent issued.
- 4.2 **Roads and Transportation (Flood Risk Management)** – no objection to the proposal subject to attachment of conditions requiring sustainable drainage design and the implementation of the flood risk mitigation as set out within the submitted Flood Risk Assessment.  
**Response:** Noted. Appropriate conditions can be attached to any consent issued.
- 4.3 **Environmental Services** – carried out their own background noise measurements to allow assessment of the submitted Noise Impact Assessment. Following this, they have no objections subject to noise limits being placed on the proposals to protect the amenity of the surrounding area as well as conditions relating to contaminated land site investigations and controlling noise and construction times.  
**Response:** Noted. Appropriate conditions can be attached to any consent issued.

- 4.4 **SEPA** – consider the proposals as falling within essential infrastructure as per their flood risk and land use vulnerability guidance and therefore had no bespoke comments to make.

**Response:** Noted.

- 4.5 **Scottish Water** – no objections to the proposal.

**Response:** Noted.

- 4.6 The following consultees had no comments to make on the proposals:-

- ◆ West of Scotland Archaeology Service
- ◆ Rutherglen Community Council
- ◆ Scottish Power Energy Networks
- ◆ Clyde Gateway

## **5 Representation(s)**

- 5.1 Statutory neighbour notification was undertaken and the proposal advertised in the local press for non-notification of neighbours. Following this publicity, 8 letters of objection were received from 7 separate third parties with the following concerns:-

**a) Proximity of proposals to residential properties**

**Response:** The nearest residential properties are 150m from the site boundary and are separated from the site, either by the River Clyde or public roads. The site is on land that is designated for Employment purposes in SLLDP2 and it is also subject to an extant permission in principle for retail, restaurants, hot food takeaways and leisure which are all uses that also have a similar level of potential impact in relation to the existing amenity of the area. Environmental Services are content that the proposals would meet required noise limits. It is considered that the proposals location in relation to residential properties is acceptable and would not impact upon the amenity of the area.

**b) Flood Risk**

**Response:** SEPA have no objection to the proposals in relation to flood risk. Roads and Transportation Services (Flood Risk Management) have no objections to the proposals subject to compliance with the Council's design criteria for flood risk and drainage design.

**c) Air and Water pollution**

**Response:** The proposals would not affect air quality nor would any discharge enter the water table.

**d) Noise and inadequate background noise readings within the submitted Noise Impact Assessment**

**Response:** Environmental Services carried out their own background noise levels and are content that acceptable noise limits can be met.

**e) Visual Impact**

**Response:** Whilst functional in design, it is considered that the proposals are not of a scale that would have a dominating visual impact upon the surrounding landscape. The site is currently vacant land and it is considered that developing the site would have a net positive impact in comparison to its current visual aspect.

**f) Industrial nature of the proposal**

**Response:** The application site is located on land designated for Employment purposes.

**g) Impact on retail properties**

**Response:** Section 6 below includes a detailed assessment of the proposals in relation to the mixed use permission in principle granted on the site as well as an assessment of the proposals on land which is designated as Employment purposes

**h) The potential for the batteries to go on fire, the danger of storing electricity near a water course and potential health implications**

**Response:** If the proposals are granted planning permission, the operator would have to comply with all Health and Safety requirements regarding proposals of this nature which are outwith the scope of the Planning System. There has been no demonstrable correlation in relation to health implications being associated with battery storage but again this would be out with the remit of the Planning assessment.

**i) Neighbour notification was not carried out correctly**

**Response:** The Council carried out the statutory neighbour notification fully, as required, including advertising the application within the local newspaper.

**j) This proposal will prejudice the redevelopment of other land within the vicinity of the site**

**Response:** Any applications for development of other land in the area will be dealt with on their merits. The site is identified for employment use in the adopted SLLDP2 and the proposals are in keeping with that designation.

**k) The proposals will have insurance implications for surrounding neighbours**

**Response:** This is not a material planning consideration.

5.2 These letters are available for inspection on the planning portal.

**6 Assessment and Conclusions**

6.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the approved Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP) and the adopted South Lanarkshire Local Development Plan 2 (SLLDP2). As noted in 3.2.1 above, it is considered that the GCVSDP is a strategic, high-level document and an application of this scale and nature does not raise any strategic implications. Therefore, no further assessment against this document is required.

6.2 SLLDP2 Policy 1 'Spatial Strategy' states that developments that accord with the policies and proposals of the development plan will be supported. The application site is on land designated as Core Industrial and Business Area within the SLLDP2 where Policy 8 'Employment' applies. This policy states that these areas are to be retained for industrial/business use (class 4/5/6) and any exceptions must have a justification for locating within the industrial area and meet the criteria set out in SLLDP2 Policy ICD2 - Non-conforming Uses in Core Industrial/ Business Areas.

This criteria is as follows:-

- a. The effect the proposal will have on the continuity of the marketable industrial land supply in terms of quantity, range and quality.
- b. Development for residential use will not be permitted.
- c. The proposal must not determine the vitality and viability of existing town and village centres within South Lanarkshire and should follow the sequential approach as set out in SLLDP2 Policy 10 and Town Centres and Retailing Supporting Guidance.
- d. That the development of the site or premises would not adversely affect the industrial operation, amenity, industrial character or function of the area, including traffic movement and circulation.
- e. The site or premises has been subject to a marketing appraisal for classes 4, 5 and 6 to the Council's satisfaction and has been actively marketed for these uses for a minimum period of six months.
- f. The site or premises can easily be accessed from main road routes and has satisfactory access by walking, cycling and public transport.
- g. The infrastructure implications, including the impact on the transport network of the development are acceptable, or can be mitigated to an acceptable level.
- h. The proposal includes appropriate parking provision for the type of development.
- i. The development will not adversely affect the natural or built environment, including Natura 2000 sites and Protected Species.

6.3 It is considered that the location of the proposals within 150m of the Dalmarnock Grid Supply Point allows the minimum amount of transmission infrastructure to be required to connect the battery proposals to the national grid. This is considered an adequate justification for the location within the industrial area. In addition, the principle of redeveloping the site for alternative uses has been established by the extant PPP.

6.4 In relation to Policy ICD2 the following factors are considered to be of relevance:-

- ◆ The site has been vacant for several years. It is considered that loss of this relatively small area of the overall designation will not have a significant impact on the quantity, range and quality of the available employment land in this area. It also noted that the PPP on the site would result in 4.3 ha of employment land being redeveloped
- ◆ Battery storage is considered a quasi-industrial use that would be compatible within an Employment area
- ◆ As the proposal is non-retail/commercial, the development will not have any adverse impact on the vitality and viability of the nearby town/neighbourhood centres
- ◆ Due to the limited vehicle movements and lack of need for public access to the site, there is considered to be no adverse impact on the character or function of the surrounding industrial area, or the surrounding network
- ◆ The site access, parking provision and internal arrangements are considered to be acceptable, and no objections have been received from Roads and Transportation Service
- ◆ There is considered to be no adverse environmental impacts in relation to flood risk/environmental disturbance. In this regard, no objections have been received from SEPA, Environmental Services or the Council's Flood Risk Management Team
- ◆ An Ecological Survey was submitted as part of the planning application and there were no signs of any protected species on site



It is therefore considered that the proposals accord with the relevant criteria and provisions of SLLDP2 in this regard.

- 6.5 Policy 2 'Climate Change' of the SLLDP2 states that proposals for new development must, where possible, seek to minimise and mitigate against the effects of climate change. As noted in 2.3 above, whilst the electricity transmitted for storage within the proposed batteries will have come from a mixture of renewable and non-renewable sources the purpose of the batteries is to ensure there is always grid stability. As renewable energy becomes more prevalent, grid stability becomes a significant issue due to the intermittent nature of renewable energy generation. As such, it is considered that the batteries purpose is intrinsically linked to renewable energy generation and therefore can be viewed as renewable infrastructure to support increased renewable energy generation. Therefore, the proposals are considered to be in accordance with the aims of this Policy.
- 6.6 SLLDP Policy 3 'General Urban Areas and Settlements' requires particular consideration of developments in relation to the existing amenity of the surrounding area and requires development proposals within settlements to accord with other relevant policies in the development. The application is for development within a settlement boundary and therefore the principle of the development accords with these two policies subject to further assessment against the other relevant policy criteria as follows.
- 6.7 Policy 5 'Development Management and Placemaking' states that development proposals should take account of and be integrated within the local context and built form. New development should also have no significant adverse impacts on the local community. This advice is supported within SLLDP2 Policy DM1 'New Development Design. In this instance, and given the nature of the proposals, the design proposed is functional in form and involves the siting of up to 24 containers to house the batteries. The containers are approximately 2.9 metres in height with the substation control building being the tallest structure at 3 metres. A 2.4 metre high, security fence would surround the whole site. It is considered that the scale of the proposals is similar to the existing Dalmarnock Grid Supply Point located some 150m from the site. This results in the proposals being in keeping with the character of the surrounding area and would not dominant the surrounding street scene. A functional battery building would not detract from the amenity of the area and would be read, as with the Dalmarnock Grid Supply Point, as essential electricity infrastructure. It is therefore considered that the design of the proposals would not be detrimental to the surrounding area, nor would it detract from any future proposals for the surrounding area.
- 6.8 In terms of the impact the proposals would have on the amenity of the area, including air quality, it is noted that the proposals would not emit any gases as part of the process and are in essence similar in nature to electricity substations or indeed the neighbouring Dalmarnock Grid Supply Point. It is considered that the minimal traffic movements associated with the proposal means that any other potential impacts on air quality will be negligible. Environmental Services have reviewed the Noise Impact Assessment (NIA) submitted as part of the planning application. Following carrying out their own background readings within the area, they are satisfied with the conclusions of the NIA and that appropriate noise levels can be met and controlled through condition. The appropriate noise levels are acceptable immediately outside the application site and therefore would be acceptable for any future, neighbouring development. The application lies with the Rutherglen Air Quality Management Area, where SLLDP2 Policy DM17 'Air Quality' applies. This policy states that development proposals which have the potential to have a detrimental impact on air quality will not

be acceptable, unless measures to mitigate the impact of air pollutants are proposed and can be agreed

- 6.9 SLLDP2 Policy 15 'Travel and Transport' requires that new development does not impact upon any existing walking or cycle route and promotes sustainable travel, where at all possible. In this instance there are no walking or cycling routes affected by the proposals. The site is in an area which is accessible by public transport. Adequate onsite parking is proposed, and Roads have no objection to the proposals subject to the conditions outlined in 4.1 above.
- 6.10 SLLDP2 Policy 16 'Water Environment and Flooding' states that development proposals within areas of flood risk or that are detrimental to the water environment will not be supported. Policies SDCC2 Flood Risk and SDCC3 Sustainable Drainage Systems provide further detailed advice in support of Policy 16. Given the site's proximity to the River Clyde, it is located within an area of high flood risk as defined by SEPA's flood map. A Flood Risk Assessment (FRA) has been submitted as part of the application. It notes the unmanned nature of the site and its classification as essential infrastructure. As such, the FRA states that the proposals would not exacerbate the flood risk of the surrounding area and states that appropriate mitigation, such as ensuring the battery units are on raised bases would ensure that they are not at risk from potential flooding. SEPA have confirmed that they consider the proposals to comprise essential infrastructure and is a use that is considered acceptable within a flood risk area. Transportation Services Flood Risk Management agree with the findings of the FRA and have no objections to the proposals subject to compliance with the Council's SuDS criteria and the implementation of the mitigation referenced within the FRA. It is therefore considered that the proposals accord with the relevant provisions of the development plan in this instance.
- 6.11 SLLDP2 Policy 18 'Renewable Energy' is an overarching renewable energy policy and, therefore, defers the detailed, development management consideration to the Assessment Checklist for Renewable Energy Proposals contained within SLLDP2 Volume 2. Volume 2 Policy RE1 Renewable Energy outlines the considerations, criteria and guidance that must be taken into account for all renewable energy proposals. These are the Assessment Checklist contained within Appendix 1 of SLLDP 2, Volume 2, the Supporting Planning Guidance on Renewable Energy, the South Lanarkshire Landscape Capacity for Wind Energy 2016 (as amended by the Tall Wind Turbines Guidance 2019) and other relevant SLLDP2 Policies. It is noted that the majority of this guidance relates to wind turbines and it is considered that the relevant, remaining development management criteria have already been assessed throughout the above policy criteria assessment.
- 6.12 In conclusion, it is considered that the proposed development is acceptable and, therefore, it is recommended that planning permission should be granted. It is also considered that the proposals would have a negligible impact upon the PPP granted for the wider area and would not result in any future development not being able to be built out should further permissions be secured.

## **7 Reasons for Decision**

- 7.1 The proposed development complies with Policies 1,2, 3, 5, 8, 15, 16, 18, SDCC2, SDCC3, ICD2, RE1, DM1 and DM17 of the Adopted South Lanarkshire Local Development Plan 2 (2021).

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

Date: 24 November 2021

**Previous references**

- ◆ CR/15/0040
- ◆ P/19/0307
- ◆ P/21/0312
- ◆ P/21/0008/PAN

**List of background papers**

▶ Application form	
▶ Application plans	
▶ South Lanarkshire Local Development Plan 2 (adopted 2021)	
▶ Neighbour notification letter dated	21.07.2021
▶ Consultations	
Roads Development Management Team	07.10.2021
Environmental Services	29.10.2021
Roads Flood Risk Management	04.10.2021
Scottish Water	14.09.2021
SEPA Flooding	07.09.2021
▶ Representations	Dated:
Mrs Sarah and Robert Russell, 25 Farme Castle Court, Rutherglen, Glasgow, G73 1AA	07.09.2021
Mr Kevin Welsh, 19 Vancouver Walk, Glasgow, G40 4TP	07.09.2021
Robert And Sarah Russell, 25 Farme Castle Court, Rutherglen, Glasgow, South Lanarkshire, G73 1AA	08.09.2021
Mr Michael Daley, 49 Vancouver walk, Glasgow, Glasgow, G40 4Tp	10.09.2021
Mrs Marion Miller, 31, Farme Castle Court, Glasgow, G73 1AA	07.09.2021
T G And V Properties Ltd, Received Via Email	08.10.2021
Catherine Browning, 33 Farme Castle Court, Rutherglen, G73 1AA	04.10.2021
Mr Eugene Watson, 38 Sydney Crescent, Dalmarnock, Glasgow, G40 4TQ	17.09.2021

**Contact for further information**

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

James Wright, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455903

Email: [james.wright@southlanarkshire.gov.uk](mailto:james.wright@southlanarkshire.gov.uk)

### Conditions and reasons

01. That before any development commences on site, details of all materials to be used as external finishes on the development shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

02. That before any work starts on site, a Construction Traffic Management Plan (CTMP) shall be submitted to the Council as Roads and Planning Authority for approval. This should provide details of access and parking provision for staff and visitors, intended working hours, how deliveries of materials will be managed and stored and what wheel washing facilities will be provided to prevent mud being carried on to the adopted road. Once approved the CTMP will be implemented as such for the lifetime of the construction of the development, hereby approved.

Reason: in the interests of traffic and public safety as well as to preserve the amenity of the surrounding area.

03. That before the development is completed or brought into use, a 3.5m access road shall be laid out and trapped and finished in hardstanding as to prevent any surface water or deleterious material from running onto or entering the road.

Reason: In the interests of traffic safety and to prevent deleterious material entering the road.

04. That before any work starts on site, the following shall be submitted for the written approval of the Council, as Planning Authority:-

1. Sustainable Drainage Design

A sustainable drainage system serving the application site, designed and independently checked in accordance with the Council's current developer design guidance May 2020 is to be provided.

We will expect the surface water runoff to be collected, treated, attenuated, and discharged using sustainable drainage techniques in accordance with the latest industry guidance.

Copies of the self-certification contained within Appendix C and Appendix D Independent Check (refer to the Council's developer design guidance May 2020) duly signed by the relevant parties are to be submitted.

2. Professional Indemnity Insurance

The Applicant should be made aware at this juncture of the need to have the appropriate Appendices A, B, C D and E "Signed Off" by the relevant parties with these parties providing a copy of their Professional Indemnity Insurance for our records.

3. Future Maintenance Responsibilities of SuDS Apparatus

In order to ensure a robust future maintenance regime is in place, a copy of confirmation of future maintenance of sustainable drainage apparatus contained within Appendix E (refer to the Council's developer design guidance May 2020) duly signed by the appropriate party together with a digital copy of the construction drawings showing the SuDS apparatus (OS referenced) with highlighted maintenance responsibilities and associated contact details of any maintenance organisations should be supplied for review and for our records.

Once approved the details shall be implemented as such and maintained for the lifetime of the development, hereby approved.

Reason: In the interests of sustainable drainage.

05. That all flood mitigation measures contained within the document titled Dalmarnock Battery Energy Storage System Flood Risk Assessment dated April 2021 shall be implemented fully as narrated and maintained for the lifetime of the development, hereby approved.

Reason: In the interests of flood risk.

06. That before any work starts on site,
- (a) The applicant should be required to undertake a comprehensive site investigation, carried out to the appropriate Phase level, to be submitted to and approved in writing by, the Council as Planning Authority. The investigation shall be completed in accordance with advice given in the following:
    - i) Planning Advice Note 33 (2000) and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995)
    - ii) Contaminated Land Report 11 - 'Model Procedures for the Management of Land Contamination (CLR 11) - issued by DEFRA and the Environment Agency
    - iii) BS 10175:2011 - British Standards institution 'The Investigation of Potentially Contaminated Sites - Code of Practice'.
  - (b) If the Phase 1 investigation indicates any potential pollution linkages, a Conceptual Site Model must be formulated and these linkages must be subjected to risk assessment. If a Phase 2 investigation is required, then a risk assessment of all relevant pollution linkages using site specific assessment criteria will require to be submitted.
  - (c) If the risk assessment identifies any unacceptable risks, a detailed remediation strategy will be submitted to and approved in writing by the Council as Planning Authority. No works other than investigative works shall be carried out on site prior to receipt of the Council's written approval of the remediation plan.

Reason: To avoid unacceptable risks to human health and the environment, to ensure that the land is remediated and made suitable for its proposed use.

07. Any remediation of the site as required by condition 6 above, shall
- i) be carried out in accordance with the approved remediation plan prior to the proposed development being brought into use. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Council as Planning Authority.

- ii) On completion of the remediation works, the developer shall submit a completion report to the Council as Planning Authority, confirming that the works have been carried out in accordance with the approved remediation plan and that the works have successfully reduced these risks to acceptable levels.
- iii) Any previously unsuspected contamination which becomes evident during the development of the site shall be brought to the attention of the Council as Planning Authority within one week or earlier of it being identified. A more detailed site investigation to determine the extent and nature of the contaminant(s) and a site-specific risk assessment of any associated pollutant linkages, shall then require to be submitted to and approved in writing by the Council as Planning Authority.

Reason: To avoid unacceptable risks to human health and the environment, to ensure that the land is remediated and made suitable for its proposed use.

08. Between the hours of 08:00 and 20:00 the measured noise rating level emitted from the Battery Energy Storage System (L<sub>Ar</sub>,1hr) shall not exceed the background noise level (L<sub>A90</sub>,30 min) by more than 4dB within the curtilage of any residential development. This shall be measured in accordance with British Standard BS 4142:2014 - Method for Rating and Assessing Industrial and Commercial Sound at the proposed development. Between the hours of 20:00 and 08:00 the noise rating level emitted from the Battery Energy Storage System (L<sub>Ar</sub>,15 min) shall not exceed the background noise level (L<sub>A90</sub>,30min) by more than 4dB. This shall be measured in accordance with BS4142:2014 at the proposed development.

The internal noise levels attributable and resultant from the Battery Energy Storage System shall comply with BS 8233:2014 Guidance on sound insulation and noise reduction for buildings as follows-

- a) The internal levels with windows open do not exceed an L<sub>Aeq</sub>,16hr of 40dB daytime (07:00 - 23:00)
- b) The internal levels with windows open do not exceed an L<sub>Aeq</sub>,8hr of 30dB night-time (23:00 - 07:00).
- c) The internal levels with windows open do not exceed an L<sub>Amax</sub> of 45dB night-time (23:00 - 07:00).
- d) The external levels shall not exceed an L<sub>Aeq</sub>,16hr of 50dB daytime in any garden amenity areas, when measured free-field

The Internal Noise Rating Values, within the residential property attributable and resultant from the Battery Energy Storage System, shall not exceed-

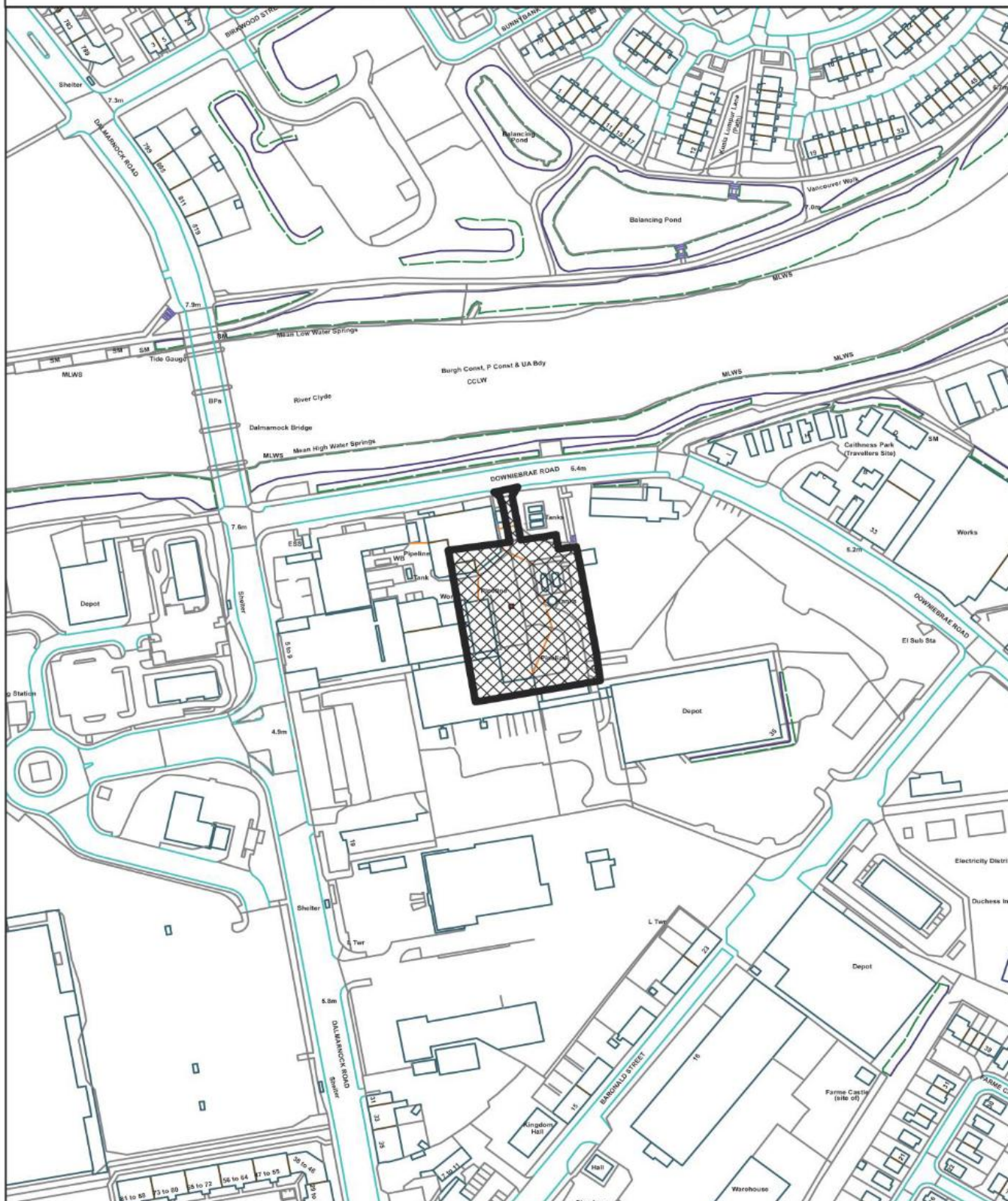
- NR25 between 23.00hrs and 08.00hrs
- NR35 between 08.00hrs and 23.00hrs

Reason: In the interests of amenity



P/21/1525

Land 70M Southwest of Sanmex Buildings, Downiebrae Road, Rutherglen



© Crown copyright and database rights 2019 OS 100020730. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:2,500  
Date:  
18/11/2021



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Economic Development



# Report

7

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/1228
Planning proposal:	Erection of agricultural worker's dwellinghouse

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	Mr Willie Allison
Location:	Unused Field Gated Entrance Off Millwell Road Opposite Laigh Cleughearn Farm East Kilbride

## 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.

## 3 Other information

- ◆ Applicant's Agent: Brian McAteer
- ◆ Council Area/Ward: 05 Avondale And Stonehouse
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2 (adopted 2021)**  
Policy 4 – Green Belt and Rural Area  
Policy 5 - Development Management and Placemaking  
Policy DM1 – New Development Design  
Policy GBRA1 – Rural Design and Development  
Policy GBRA10 – Accommodation Associated with an Existing or Proposed Rural Business

### ◆ Representation(s):

▶	6	Objection Letters
▶	2	Support Letters
▶	1	Comment Letters

◆ **Consultation(s):**

Roads and Transportation Services (Development Management Team)

Environmental Services

## Planning Application Report

### 1 Application Site

- 1.1 The application site relates to a small area of agricultural land, measuring approximately 1,825 square metres, located to the south of Millwell Road, Auldhouse. The land in question forms part of Laigh Cleughearn Farm. The site, which slopes gently upwards from north-west to south-east, is bounded to the north by Millwell Road, to the south and east by farmland forming part of Laigh Cleughearn Farm and to the west by High Cleughearn Road. The main farm buildings at Laigh Cleughearn are located adjacent to the site on the opposite side of High Cleughearn Road. The site is currently accessed via a gated field access located at the corner of Millwell Road and High Cleughearn Road.

### 2 Proposal(s)

- 2.1 The applicant seeks planning permission to erect an agricultural worker's dwellinghouse within the site, with an associated access and car parking area. The proposed dwellinghouse would be for the use of the applicant's son, who is taking on much of farming operations at Laigh Cleughearn Farm. Supporting justification has been provided with regard to the existing and proposed operations of the farm.
- 2.2 The proposed dwellinghouse would be a single storey, three bedroom house. A new access to serve the dwellinghouse would be taken from High Cleughearn Road, 50 metres south of the junction with Millwell Road. Landscape planting would be put in place on the eastern and southern boundaries of the site to separate the residential house plot from the adjacent farmland. Existing mature trees on the western boundary of the site would be retained as part of the proposed development of the site.

### 3 Background

#### 3.1 Local Plan Status

- 3.1.1 The site is located within the Green Belt to the south of East Kilbride as designated by Policy 4 of the South Lanarkshire Local Development Plan 2 (adopted 2021). Policies 5 – Development Management and Placemaking, DM1 - New Development Design, GBRA1 – Rural Design and Development and GBRA10 – Accommodation Associated with an Existing or Proposed Rural Business are also of relevance to the application in this instance.

#### 3.2 Planning Background

- 3.2.1 Planning permission was previously sought by the applicants for the erection of an agricultural worker's dwelling house on land to the north of Millwell Road, to the west of Cleughearn Poultry Farm, in January 2021 (Planning Reference: P/21/0042). However, although the principle of the erection of a dwellinghouse to serve the farm business was considered acceptable at that time, following discussions with the Planning Service it was agreed that it would be appropriate for this application to be withdrawn from further consideration and for a more appropriate site to be located for the proposed dwellinghouse. Following the undertaking of subsequent discussions between the applicant and the Planning Service, the current site was identified as the most suitable location for the proposed dwellinghouse.

### 4 Consultation(s)

#### 4.1 Roads and Transportation Services (Development Management Team):-

Following the submission of a speed survey to confirm that the available visibility splays at the proposed site access would be sufficient to allow the site to be safely accessed, Roads and Transportation Services confirmed their satisfaction with the proposed development, subject to conditions.

**Response:** Noted. The requested conditions, which relate to maintenance of the visibility splay and the formation of car parking spaces within the site, would be attached to any consent issued.

- 4.2 **Environmental Services:-** Offered no objections to the proposals subject to the imposition of a condition to any consent issued requiring full details of refuse management provisions associated with the proposed dwellinghouse to be submitted to the Council, and thereafter put in place to the Council's satisfaction.

**Response:** Noted. The requested condition would be attached to any consent issued.

## **5 Representation(s)**

- 5.1 Statutory neighbour notification was undertaken and the proposal was advertised in the East Kilbride News for neighbour notification purposes. Nine letters of representation were received in respect of the application, comprising six letters of objection, one letter of comment and two letters of support. The points raised have been considered as follows:-

**a) The proposed development does not comply with Council planning policy concerning development in the Green Belt.**

**Response:** Council planning policy relating to development within the Green Belt, as set out in Policy 4 as well as the Green Belt policies contained within Volume 2 of the South Lanarkshire Local Development Plan 2 (adopted 2021), states that the Green Belt should function primarily for purposes relating to agriculture, forestry, recreation and other appropriate countryside uses. As set out in Section 6 below, the view is taken that this proposed development is directly associated with an agricultural use and is necessary in order to allow the associated agricultural business to appropriately function. The scale, design and siting of the development is also considered to be appropriate in this case. As such, the view is taken that the proposed development is fully compliant with the provisions within adopted Council planning policy relating to development in the Green Belt.

**b) The site is currently open farmland within the countryside and should remain in its current use.**

**Response:** It is noted that the application site forms a corner area of a larger field utilised as farmland. However, as detailed in Section 6 below, the view is taken that the proposed development of an agricultural worker's house within this site would be fully compliant with adopted Council planning policy as set out in the South Lanarkshire Local Development Plan 2. In addition, the development would not impact on the continued use of the land adjoining the site for agricultural purposes. As such, it is not considered necessary for the site to be retained as farmland in this case, given that the proposed development fully accords with adopted Council planning policy.

**c) No evidence of the need for the provision of an agricultural worker's dwellinghouse has been provided.**

**Response:** The applicants have provided supporting justification detailing the need for an agricultural worker's dwelling to be provided in respect of the applicant's son, who works on the farm. In this regard, a report prepared by the Scottish Agricultural College has been provided in respect of the farm and the Planning Service is satisfied that the details provided represent sufficient justification for the provision of an agricultural worker's dwellinghouse associated with the farm. As such, it is considered that the need for the dwellinghouse to be provided has been appropriately evidenced in this case.

**d) The access to the site is poor and could pose a road safety issue.**

**Response:** A new access to the site to serve the proposed dwellinghouse is proposed to be formed as part of the development. The access would be provided onto High Cleughearn Road at a location approximately 50 metres south of the junction of High Cleughearn Road and Millwell Road. As part of the consideration of road safety matters relating to the application, a speed survey was undertaken and submitted to the Roads Service to demonstrate that adequate vehicular visibility splays could be provided at the proposed access point. The Roads Service has confirmed that the available visibility splays at this location would be satisfactory and that the proposals meet their requirements in terms of road safety considerations, subject to conditions that would be attached to any consent issued. On this basis, it is considered that the proposed access to the site would be acceptable and that there would be no adverse impact on road safety as a result of the proposed development.

**e) The dwellinghouse does not appear to be of a traditional design or one that incorporates traditional materials.**

**Response:** The proposed dwellinghouse is noted to be relatively small in terms of scale and proportionate to its use as an agricultural worker's dwellinghouse and also to the rural location in which it is proposed to be situated. There are no concerns with regard to the design of the dwellinghouse as proposed. A condition would be attached to any consent issued requiring full details of all materials proposed to be used as external finishes to be submitted to and approved by the Council, to ensure that all materials used would be appropriate to the site in question. Subject to adherence to this condition, it is not considered that there are any concerns with regard to the design or finishes of the proposed dwellinghouse.

**f) Any planning condition restricting the use of the dwellinghouse to a farm worker could be removed in future as has happened elsewhere.**

**Response:** The proposed dwellinghouse has been justified in respect of the accommodation of an agricultural worker associated with the farm business at Laigh Cleughearn Farm. As such, a condition would be attached to any consent issued restricting the habitation of the dwelling to an agricultural worker associated with the farm, or their dependents. In planning terms, a planning application could be submitted at a future date seeking to amend or remove this condition and would be considered on its merits at that time, independently of any decisions taken in respect of other similar applications relating to different properties elsewhere. However, any such matters would be considered as part of any future application in this regard and should not impact on the current consideration of the proposed erection of a dwellinghouse to serve an agricultural worker as is proposed in this case.

**g) It should be ensured that no protected species or other wildlife features of note are harmed as a result of the proposed development.**

**Response:** It is noted that the site relates to an area of greenfield land in the countryside and that no buildings or significant natural features would require to be removed to facilitate the proposed development. In addition, a condition would be attached to any consent issued restricting the removal of any trees from the site without the further written permission of the Planning Service. As such, it is considered extremely unlikely that there would be any adverse impact on any protected species or wildlife features of note as a result of this proposed development.

- h) The approval of farm workers dwellinghouses such as this one is important to ensure that 24 hour care can be provided to animals year round and to safeguard and support the next generation of farmers in our community.**

**Response:** The writer's support for the application is noted. In this instance, following a detailed assessment of the proposed development against adopted Council planning policy, it is considered appropriate to recommend the approval of planning permission, subject to the attached conditions.

5.2 These letters are available for inspection on the planning portal.

## **6 Assessment and Conclusions**

- 6.1 The applicants propose to erect an agricultural worker's dwellinghouse on land forming part of Laigh Cleughearn Farm, Auldhouse. The proposed dwellinghouse would be for the use of the applicant's son, who is taking on much of farming operations at Laigh Cleughearn Farm and who currently resides with his parents in the main farmhouse. The proposed dwellinghouse would be a single storey, three bedroom house. A new access to serve the dwellinghouse would be taken from High Cleughearn Road, 50 metres south of the junction with Millwell Road. Landscape planting would be put in place on the eastern and southern boundaries of the site to separate the residential house plot from the adjacent farmland. Existing mature trees on the western boundary of the site would be retained as part of the proposed development of the site.
- 6.2 The site is located within the Green Belt to the south of East Kilbride as designated by Policy 4 – Green Belt and Rural Areas of the South Lanarkshire Local Development Plan 2 (adopted 2021). Policy 4 states that, within Green Belt areas, there will be a general presumption in favour of agricultural, equestrian and other appropriate countryside uses and developments that relate to such uses. Additional planning policy relating to specific circumstances where residential uses can be considered acceptable is detailed within the associated Green Belt and rural area policies contained in Volume 2 of the adopted plan.
- 6.3 Policy GBRA10 of Volume 2 of the plan provides specific policy and guidance with regard to the provision of permanent, new build residential accommodation associated with a rural business. The policy advises that, where it can be demonstrated that the accommodation is necessary, the business is financially viable over an extended time period and where no suitable buildings exist for conversion to residential accommodation, the provision of new build residential accommodation can be supported.
- 6.4 In this instance the applicant has provided supporting justification, specifically the submission of a report prepared by the Scottish Agricultural College, in respect of the proposed development. It is noted that the report confirms that the business is long established, financially sound and that there is a genuine need for the proposed dwelling to be provided in order to facilitate the applicant's son who is taking on a greater role in the farming operations on site. In addition, discussions were held between the applicants and the Planning Service in respect of the proposed development. As part of these discussions, it was agreed that there were no existing buildings considered suitable for conversion to residential accommodation and following the consideration of a number of options, the application site was agreed to be the most suitable location for the proposed dwellinghouse. As such, the view is taken that the proposal represents an appropriate development connected to an established agricultural use and the principle of the provision of residential accommodation at this location is considered to comply with the requirements of Policies 4 and GBRA10. In addition, in accordance with the provisions of Policy GBRA10 and given the justification for the provision of a dwellinghouse in terms of the

provision of residential accommodation to an agricultural worker, a condition would be attached to any consent issued restricting the habitation of the dwelling to an agricultural worker associated with the farm, or their dependents.

- 6.5 Policies 5 and DM1 of the adopted plan provide general development management and design policy in respect of proposed developments, while Policy GBRA1 provides similar development design policy in the context of developments within Green Belt and rural area locations. In this regard, the chosen site for the dwellinghouse is considered to be suitable, given its close proximity to the main farm steading, which is located on the opposite side of High Cleughearn Road, directly to the west of the application site. In addition, it is noted that the proposed house is relatively small scale and is proportionate to the proposed use as an agricultural worker's dwellinghouse. Subject to a condition that would be attached to any consent issued in respect of the use of appropriate materials, there are no concerns with regard to the design and finishes of the proposed dwelling.
- 6.6 Additionally, it is noted that following the submission of additional information relating to road safety considerations, specifically a speed survey undertaken at the proposed vehicular access to the site, the Council's Roads and Transportation Services have confirmed their satisfaction with the proposed development in terms of access, parking and road safety considerations, subject to conditions that would be attached to any consent issued. Similarly, subject to a condition relating to refuse management that would be attached to any consent issued, the Council's Environmental Services have confirmed their satisfaction with the proposed development. On this basis, the view is taken that the proposed development would not raise any significant concerns in terms of amenity issues or have any significant adverse impact on the character or appearance of the local rural environment. On this basis, the view is taken that the proposal is fully compliant with the provisions of Policies 5, DM1 and GBRA1 of the adopted Local Development Plan.
- 6.7 Following neighbour notification and advertisement of the application in the local press, nine letters of representation, including six letters of objection, one letter of comment and two letters of support, were received in respect of the proposed development. The points raised are detailed in Section 5 above. The letters of support and comment have been noted and it is not considered that the points of objection raised merit the refusal of planning permission in this instance.
- 6.8 In summary, following a detailed assessment of the proposals, it is considered that the development would allow the provision of an appropriately sited agricultural worker's dwellinghouse to serve the needs of the farm business at Laigh Cleughearn. Subject to conditions that would be attached to any consent issued, it is not considered that there would be any significant adverse impact on the character or amenity of the local area as a result of the development. It is, therefore, recommended that planning permission is granted for the proposed development, subject to the attached conditions.

## **7 Reasons for Decision**

- 7.1 The proposal would not have a significant adverse impact on amenity and complies with the relevant policies of the adopted South Lanarkshire Local Development Plan 2 (Policies 4, 5, DM1, GBRA1 and GBRA10). There are no additional material considerations which would justify refusing to grant consent.

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

Date: 24 November 2021

**Previous references**

- ◆ P/21/0042

**List of background papers**

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated 25 August 2021
- ▶ Consultations
  - Roads Development Management Team 22.11.2021
  - Environmental Services 02.09.2021
- ▶ Representations Dated:
  - J. E Allan, 94 Franklin Avenue, Westwood, East Kilbride, G75 8LS 10.09.2021
  - Debbie Rainer, Received Via Email 13.09.2021
  - Jenny Arnott, Received Via Email 13.09.2021
  - Brian Gray, Received Via Email 13.09.2021
  - Mark Perkins, Received Via Email 06.09.2021
  - Mrs Emma Parker, Merkland Farm, Maybole, KA19 7PS 15.09.2021
  - Mrs Debbie Anderson, Broadlees Farm, Chapelton, ML10 6RR 16.09.2021
  - Charlotte Bannister, Via Email 04.10.2021
  - Cath Morrison, Received Via Email 24.09.2021

**Contact for further information**

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

Declan King, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB  
Phone: 01698 455049  
Email: [declan.king@southlanarkshire.gov.uk](mailto:declan.king@southlanarkshire.gov.uk)



### **Conditions and reasons**

01. 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. The development shall thereafter be carried out in accordance with the approved details to the satisfaction of the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

02. 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. The development shall thereafter be carried out in accordance with the approved details to the satisfaction of the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

03. That notwithstanding the terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or (or any such order revoking or re-enacting that order), no fences, walls or other means of enclosure shall be erected on the site other than post and wire fences up to 1 metre in height or those expressly authorised by this permission without the prior written permission of the Council as Planning Authority.

Reason: To safeguard the visual amenity of the area.

04. Prior to commencement of the development hereby approved, details of measures to facilitate the provision of full fibre broadband to serve the development, including details of appropriate digital infrastructure and a timescale for implementation, shall be submitted to and approved in writing by the Council as Planning Authority, unless otherwise agreed in writing with the applicant. The approved measures shall thereafter be carried out in accordance with the agreed implementation timescale.

Reason: To ensure the provision of digital infrastructure to serve the development.

05. That, unless otherwise agreed in writing with the Council as Planning Authority, provision shall be made for electrical charging points within the development for motor vehicles and mobility scooters. Prior to any works commencing on site details of the proposed arrangements shall be submitted and agreed in writing with the Council as Planning Authority. Thereafter the scheme shall be implemented and maintained to the satisfaction of the Council as Planning Authority.

Reason: To ensure the provision of appropriate facilities on site.

06. That, before the development hereby approved is completed or brought into use, all of the parking spaces shown on the approved plans 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.

07. That the existing visibility splays of 2m x 100m to the south of the proposed access onto High Cleughearn Road and 2m x 50m to the north of the proposed access onto High Cleughearn Road shall be maintained at all times and nothing exceeding 0.9 metres in height shall be planted, placed or erected within these sight lines.

Reason: In the interests of traffic and public safety.

08. 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.

Reason: In the interests of amenity and to ensure the protection and maintenance of the existing trees within the site.

09. 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: In the interests of amenity.

10. That the approved landscaping scheme associated with the dwellinghouse shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following occupation of the dwellinghouse 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 amenity.

11. That, prior to commencement of development works on site, details of facilities for the storage of refuse within the proposed development, including the design, location and access for uplift, shall be submitted to and approved in writing by the Council as Planning Authority. The dwelling shall not be occupied until the facilities for the storage of waste have been provided within the proposed development, in accordance with the approved scheme.

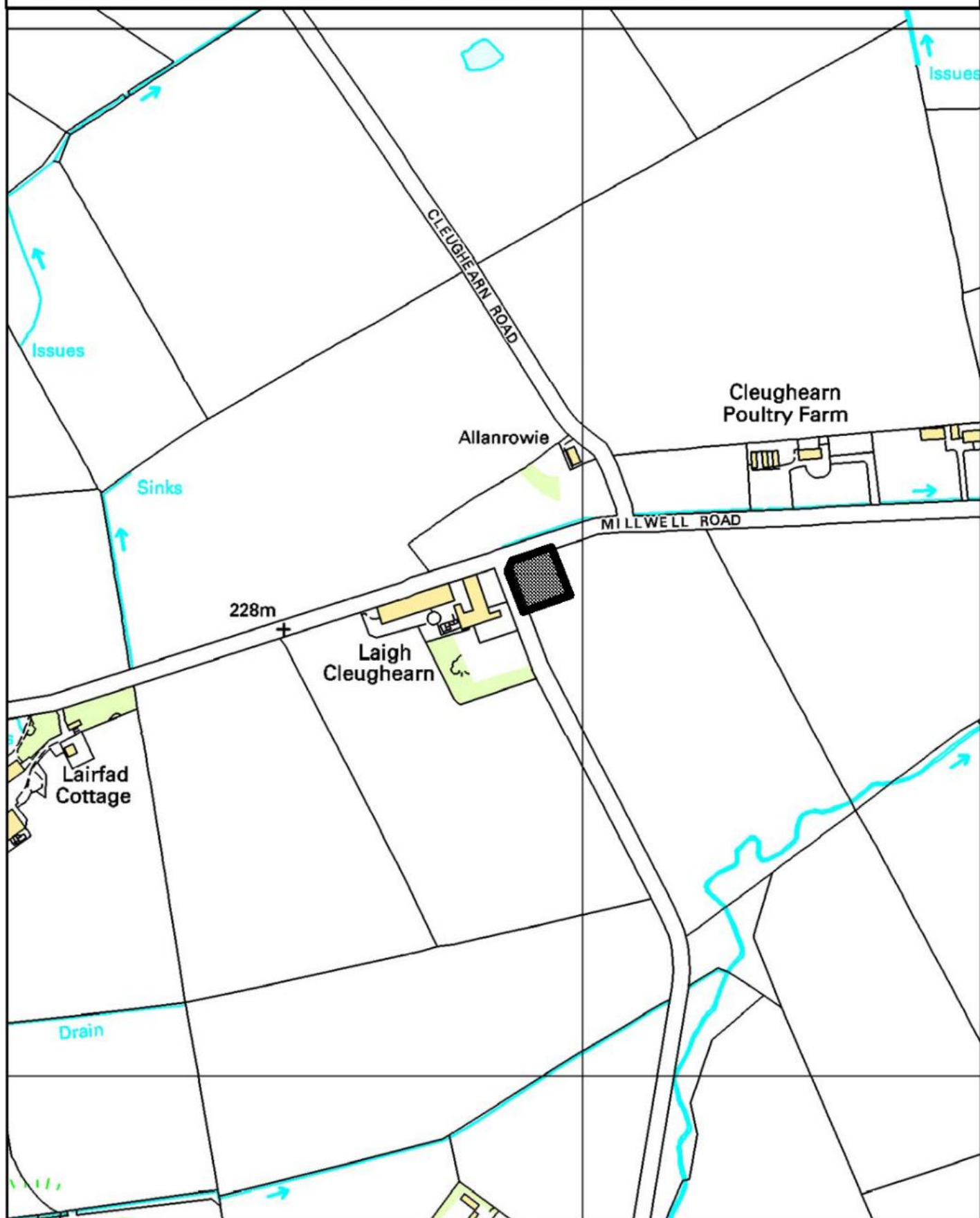
Reason: In the interests of amenity.

12. That the occupation of the dwellinghouse authorised by this permission shall be limited to a person solely or mainly employed or last employed in agriculture as defined in Section 277 of the Town and Country Planning (Scotland) Act 1997, on Laigh Cleughearn Farm; or a dependant of such a person residing with him or her or the widow or widower of such a person.

Reason: To safeguard the amenity of the area.

P/21/1228

Unused Field Gated Entrance Off Millwell Road Opposite Laigh Cleughearn Farm





# Report

8

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application No	P/21/1148
Planning Proposal:	Further Application in Relation to Planning Permission P/19/1232 for Residential Development Involving House Substitutions on 79 Plots (Plots 3-6, 12-15, 38-108)

## 1 Summary Application Information

Application Type:	Further application
Applicant:	Stewart Milne Homes
Location:	Area D Site of former Brackenhill Farm Meikle Earnock Road Hamilton

## 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.

## 3 Other Information

- ◆ Applicant's Agent: None
- ◆ Council Area/Ward: 18 Hamilton West and Earnock
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2**  
Policy 3 – General Urban Areas and Settlements  
Policy 5 – Development Management and Place Making  
Policy DM1 – New Development Design

- ◆ Representation(s):
  - ▶ 1 Objection Letter
  - ▶ 0 Support Letters
  - ▶ 0 Comments Letters
- ◆ Consultation(s):
  - Roads (Development Management)

## **Planning Application Report**

### **1. Application Site**

- 1.1 The application site relates to an existing residential development site, located to the north of Meikle Earnock Road, Hamilton, on land formerly associated with Brackenhill Farm. The land is currently being developed as part of the wider Hamilton Community Growth Area (CGA). Land surrounding the application site is either being developed as part of the Hamilton CGA proposal or earmarked for that purpose.
- 1.2 The applicant initially received planning consent in 2017 for a residential development of approximately 320 units at the former Brackenhill Farm site (application No: HM/16/0022). A subsequent planning approval reduced the number of proposed units and amended the house types within some plots (application No: P/19/1232).

### **2. Proposal(s)**

- 2.1 The applicant now seeks consent for an amendment to Planning Permission P/19/1232 involving house substitutions on 79 plots (Plots 3-6, 12-15, 38-108). The proposed changes are to reflect the housing developer's product changes and customer requirements.
- 2.2 In terms of the revised designs, the proposed houses are fairly typical of the other houses being built within the Hamilton CGA, which are a mix of detached, semi-detached and terraced properties. The development will be a mixture of 3, 4 and 5 bedroom properties with appropriate in curtilage parking provided. The road layout serving the development remains as previously approved.

### **3. Background**

#### **3.1 Local Plan Policy**

- 3.1.1 In determining planning applications, the Council must assess the proposal against the policies contained within the adopted South Lanarkshire Local Development Plan 2 (SLLDP2).
- 3.1.2 The use of the site for residential purposes is established through both the area's designation as a Community Growth Area for Hamilton in the SLLDP 2 and subsequent planning consents.
- 3.1.3 Given the nature of the application, it is considered that Policies 3 – General Urban Areas/Settlements, 5 – Development Management and Place Making and DM1 – New Development Design are appropriate to the determination of this application. The aim of these policies is to seek well designed development that is appropriately located, serviced and results in no adverse impact. The content of the above policies and how they relate to the proposal is assessed in detail in Section 6 of this report.

#### **3.2 Planning Background**

- 3.2.1 As previously noted, the application site forms part of the designated Hamilton CGA. An application was submitted in 2010 which sought "Planning Permission in Principle" (Application No. HM/10/0052, approved May 2017) for the delivery of a large part of the designated Hamilton CGA. A subsequent application, for the approval of Matters Specified in Conditions attached to HM/10/0052 (application No. HM/16/0022, approved May 2017), authorised residential development at the former Brackenhill Farm, Meikle Earnock Road, Hamilton. A further application (application No: P/19/1232) was approved in 2019 which reduced the number of proposed units and amended the house types within some plots, for part of the original proposal.

#### 4. Consultation(s)

- 4.1 **Roads and Transportation Services (Hamilton Area)** - Initially raised concern over the proposal due to insufficient parking provision at a number of the proposed house plots. Subsequently, following receipt of revised drawings have confirmed that the proposal, subject to a number of recommended conditions, is acceptable and offer no objection.

**Response:** - Appropriately worded conditions can be incorporated into any consent to address the matters raised.

#### 5. Representation(s)

- 5.1 The application was advertised in the local newspaper and statutory neighbour notification was also undertaken. Following this process one letter of representation has been received. It is noted that no objection has been raised specifically in relation to the works now proposed by this application (house substitutions) but highlight general concerns with regard to related matters, especially roads and parking, within the wider community growth area, as follows:-

- a) **Road safety concerns with regard to: (i) Roads within the existing estates within the Brackenhill development are too narrow to accommodate the volume of traffic; (ii) Density of the development is too great for these narrow roads and lack of parking for visiting cars resulting in the blocking of main road and (iii) Road crossings aren't clearly marked.**

**Response:** In response to these concerns, it must be highlighted that the road network and related parking provision for each house has been designed and built in accordance with national standards supplemented in part by local requirements stipulated by the Council Roads and Transportation Services. I am therefore confident that the design of the road network in terms of road width etc and parking provision is satisfactory. It must be acknowledged, however, that local issues can arise during the development of modern housing estates due to the construction process and the number of workers cars parked in the locality. This is a temporary inconvenience. Nevertheless, a condition requiring the provision of suitable parking for construction staff will be imposed.

- b) **Lack of maintenance of nature trail and burn and suitability of nature trail.**

**Response:** Communal amenity space within the overall development will be maintained through a factoring agreement upon completion. Until completed it is the responsibility of the applicant and/or landowner to ensure appropriate maintenance is undertaken and this has been raised with the applicant to ensure that this is the case.

- 5.2 This letter is available for inspection on the planning portal.

#### 6. Assessment and Conclusions

- 6.1 The application site is located to north of Meikle Earnock Road, to the west of Hamilton and forms part of the wider Hamilton Community Growth Area. Planning permission was granted for a residential development of approximately 320 dwellinghouses, associated roads, footpaths, open space, SUDs and landscaping (application No: HM/16/0022), which was subsequently amended through the approval of application No: P/19/1232. This development is currently under construction. The applicants now seek consent for the amendment of a number of plots within the previously approved scheme.

- 6.2 The determining issues in consideration of this application are its compliance with local plan policy, the impact on both the residential and visual amenity of the surrounding area, the road safety implications of the proposal and any other material



considerations in the determination of the application. The site is identified within the adopted Local Development Plan as being suitable for residential development through its designation as a part of the Community Growth Area for Hamilton, and subsequent planning consents.

- 6.3 The policies considered appropriate in the determination of this application are set out within Section 3.1.3 above. Principally, the stated policies and guidance seek to ensure that any development does not adversely impact on the amenity of such areas, can be adequately serviced and has been designed in a manner which takes cognisance of appropriate guidance and the area within which it is located. Having considered the design and layout of the revised proposal, I am satisfied that the scheme is capable of being developed, subject to conditions, without conflict with the general requirements of the applicable policies and guidance.
- 6.4 In terms of the detailed design of the development, it is considered that the proposed layout for the development is acceptable and that it meets the main standards set out in the Council's Residential Design Guide, particularly in relation to road layout, house to plot ratios, rear garden depths, open space and car parking provision. It is considered that the proposed development remains of a high quality design incorporating a suitably high standard of materials.
- 6.5 It is noted that the overall roads layout of the development remains unaltered from that previously approved with the proposed changes relating to the change of house type/design of 79 plots within an overall development of 320 units. It is considered that the proposed house types are acceptable and reflect the nature and style of surrounding development. The proposed development raises no road safety concerns, amenity or privacy concerns and, therefore, accords with Policies 3, 5 and DM 1 of the adopted South Lanarkshire Local Development Plan 2.
- 6.6 No concerns have been raised by Roads and Transportation Services, who were consulted on the application. The application is considered acceptable from a road safety perspective. Whilst noting the third party concern, it is considered that these issues do not specifically relate to the work proposed by this application. As such, these aspects cannot unduly influence the determination of this application. The matters raised can however be addressed through other appropriate means.
- 6.7 On the basis of the above assessment I have no objection to the application and recommend that planning permission be granted subject to the conditions listed.

## **7. Reasons for Decision**

- 7.1 The proposal accords with the policies of the South Lanarkshire Local Development Plan 2 (namely Policies 3 General Urban Areas and Settlements, 5 - Development Management and Placemaking and DM1 – New Development Design).
- 7.2 There are no other material considerations that would justify the refusal of consent.

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

3 December 2021

### **Previous References**

- ◆ HM/10/0052
- ◆ HM/16/0022
- ◆ P/19/1232

### **List of Background Papers**

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan 2 (2021)
  
- ▶ Consultations

Roads (Development Management) 26/10/2021

- ▶ Representations:

Miss Sarah Lean, 27 Whitecraigs Crescent, Hamilton, ML3 8SN 12.07.2021

### **Contact for Further Information**

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

James Watters, Planning Officer  
Montrose House,  
154 Montrose Crescent,  
Hamilton  
ML3 6LB  
Ext 4970 (Tel: 01698 454970)  
E-mail: [planning@southlanarkshire.gov.uk](mailto:planning@southlanarkshire.gov.uk)

## CONDITIONS

- 1 That all trees to be retained within the site shall be fully protected during the period of construction and prior to any work commencing on the site, written details specifying the nature of such measures shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure that adequate steps are taken to protect existing trees on the site throughout the period of the proposed building operations.

- 2 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.

Reason: To ensure that adequate steps are taken to protect existing trees on the site throughout the period of the proposed building operations.

- 3 That the open space relating to the development shall be laid out simultaneously with the development or each phase thereof and shall be completed to the satisfaction of the Council as Planning Authority.

Reason: In the interests of amenity.

- 4 That proposals for the maintenance of all areas of open space within the development shall be submitted to the Council as Planning Authority and no work on the site shall be commenced until the permission of the Council has been granted for these proposals or such other proposals as may be acceptable.

Reason: In the interests of amenity

- 5 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 amenity

- 6 That the landscaping scheme relating to the development hereby approved shall be carried out simultaneously with the development, or each phase thereof, and shall be completed and thereafter maintained and replaced where necessary to the satisfaction of the Council as Planning Authority.

Reason: In the interests of amenity

- 7 That the landscaping scheme as shown on the approved plan 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 the 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 amenity

- 8 That before any work commences on the site details of the proposed equipped play area(s) within the application site shall be submitted to the Council as Planning Authority for written approval and this shall include:
- (a) details of the type and location of play equipment, seating and litter bins to be situated within the play area(s);
  - (b) details of the surface treatment of the play area, including the location and type of safety surface to be installed;
  - (c) details of the fences to be erected around the play area(s); and
  - (d) details of the phasing of these works.

Reason: To ensure the provision of adequate play facilities within the site and in order to retain effective planning control.

- 9 That prior to the completion or occupation of the last dwellinghouses within the development or phase within which it is located, all of the works required for the provision of equipped play area(s) included in the scheme approved under the terms of Condition 8 above, shall be completed, and thereafter, that area shall not be used for any purpose other than as an equipped play area.

Reason: In order to retain effective planning control.

- 10 That prior to the completion of the development hereby permitted, the woodland maintenance and management scheme approved under by virtue of this consent, as per The Woodland Management Plan (by Alan Morton Tree Consulting Ltd, dated 21 August 2011) shall be in operation.

Reason: In order to retain effective planning control.

- 11 That before any work commences on site, a maintenance and management scheme shall be submitted to and approved by the Council as Planning Authority, and it shall include proposals for the continuing care, maintenance and protection of: -
- (a) The proposed footpaths;
  - (b) The proposed parking areas;
  - (c) The proposed external lighting provided for the area(s);
  - (d) The proposed play areas;
  - (e) The proposed grassed, planted and landscaped areas;
  - (f) The proposed fences to be erected along the boundaries of the site.

Reason: To safeguard the amenity of the area.

- 12 That prior to the completion of the development hereby approved, the maintenance and management scheme approved under the terms of Condition 11 above shall be in operation.

Reason: To safeguard the amenity of the area.

- 13 That the findings and recommendations of the submitted Biodiversity Survey and Management Plan (Envirocentre, dated August 2015) shall be fully complied with, unless otherwise agreed, in writing, with the Council as Planning Authority.

Reason: To ensure the protection of ecological interests within the site.

- 14 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.
- Reason: In the interests of amenity and in order to retain effective planning control.
- 15 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 this consent, shall be erected and thereafter maintained to the satisfaction of the Council.
- Reason: In order to retain effective planning control.
- 16 Prior to development commencing on site, a dust management and monitoring scheme shall be submitted to and approved in writing by the Council as Planning Authority. The scheme shall thereafter be implemented in accordance with a programme to be agreed in writing with the Council as Planning Authority. Monitoring results shall be readily available to Officers of the Council investigating adverse comments.
- Reason: To minimise the risk of nuisance from dust to nearby occupants.
- 17 That before development hereby approved is completed or brought into use, the new vehicular access so far as it lies within the boundaries of the road abutting the site, shall be constructed in accordance with the specification of the Council as Roads and Planning Authority.
- Unless otherwise agreed with the Council as Planning and Roads Authority, a road width of 5.5 metres shall be provided throughout the development and the access to each phase of development from Meikle Earnock Road should be increase to 7.3 metres up to the first internal junction.
- Horizontal traffic calming at appropriate locations, to be agreed with the Council as Roads Authority, shall be provided in accordance with the Principles of Designing Streets.
- Reason: In the interest of public safety.
- 18 That no dwellinghouse shall be occupied until the access roads and footpaths leading thereto from the existing public road have been constructed in accordance with the specification of the Council as Roads and Planning Authority. Unless otherwise agreed with the Council as Planning and Roads Authority, all footpaths shall be 2.0 metres in width and be of a bound construction.
- The layout of the proposed footpaths shall be agreed with the Council as Roads Authority and thereafter implemented to the satisfaction of the Council as Planning Authority.
- Reason: To ensure satisfactory vehicular and pedestrian access facilities to the dwellings.
- 19 That before the development hereby approved is completed or brought into use, the entire access road and footpath network serving that phase of the development shall be laid out and constructed in accordance with the specification of the Council as Roads and Planning Authority.

Reason: To ensure satisfactory vehicular and pedestrian access facilities to the site.

- 20 That no dwellinghouse shall be occupied until the site is served by a sewerage scheme constructed in accordance with Scottish Water standards and as approved by the Council as Planning Authority in consultation with Scottish Water as Sewerage Authority.

Reason: To ensure the provision of a satisfactory sewerage system.

- 21 That all private vehicular accesses or driveways are provided to the following standards, unless otherwise agreed by the Council as Planning and Roads Authority:

- i) Driveways should be accessed via a drop kerb.
- ii) The first 2.0m of this should be of bound or block construction to ensure that loose material is not deposited on to the road.
- iii) All driveways should be perpendicular to the road with 45 degree splays on either side (over verges).
- iv) The minimum gradient of the driveways should be 1:10.
- v) All surface water should be contained, controlled and discharged within the confines of the driveway so that there is no discharge of water onto the footway/.

Reason: To ensure the provision of adequate parking facilities to serve the development.

- 22 That before the development, or any phase of development, hereby approved is completed or brought into use, a visibility splay of 2.5 metres by 90.0 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.

All internal visibility splays shall be 2.4 metres x 25 metres in both directions.

Reason: In the interest of road safety.

- 23 That prior to the commencement of development, details of the land drainage works shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure the provision of a satisfactory land drainage system.

- 24 That before the development or each phase of development, hereby approved is completed or brought into use, a turning space shall be provided within the site to enable vehicles to enter and leave the application site in forward gears at all times. All turning facilities shall be designed in accordance with the National Roads Development Guide incorporating South Lanarkshire Council Supplementary Guidance.

Reason: In the interest of public safety.

- 25 That, unless otherwise agreed with the Council as Planning and Roads Authority, before the development hereby approved is completed or brought into use, parking shall be provided to the following standards and thereafter maintained to the specification of the Council as Roads and Planning Authority.

Parking Standards

All terraced and detached units up to 3 bedrooms - 2 spaces

All terraced and detached units of 4 or more bedrooms - 3 spaces

Under National Roads Development Guide, a single garage can be counted towards a parking space providing the minimum internal dimensions are equal to or greater than 7.0m x 3.0m.

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

- 26 That prior to works commencing on site a full vehicle swept path analysis (full size refuse vehicle) and forward visibility envelopes shall be submitted to, and agreed by, the Council as Planning and Roads Authority.

Reason: In the interest of road safety.

- 27 That during any earth removal operations, a brush motor should be employed to ensure that the local public roads are kept clear of mud and any other such debris.

Reason: In the interest of road safety.

- 28 That during the development construction period sufficient parking should be provided within the development boundary to accommodate all site staff & operatives. Details of which are to be submitted to, and agreed by, the Council as Planning and Roads Authority and thereafter maintained to the satisfaction of the Council.

Reason: In the interest of road safety.

- 29 Notwithstanding the above conditions, and the details provide within the submitted Outdoor Action Plan, the upgrading of Meikle Earnock Road shall be constructed to national cycle route standards and bench seating be provided at various locations, to be agreed with the Council as Planning Authority, adjacent to the proposed SUDs ponds and peripheral footpaths.

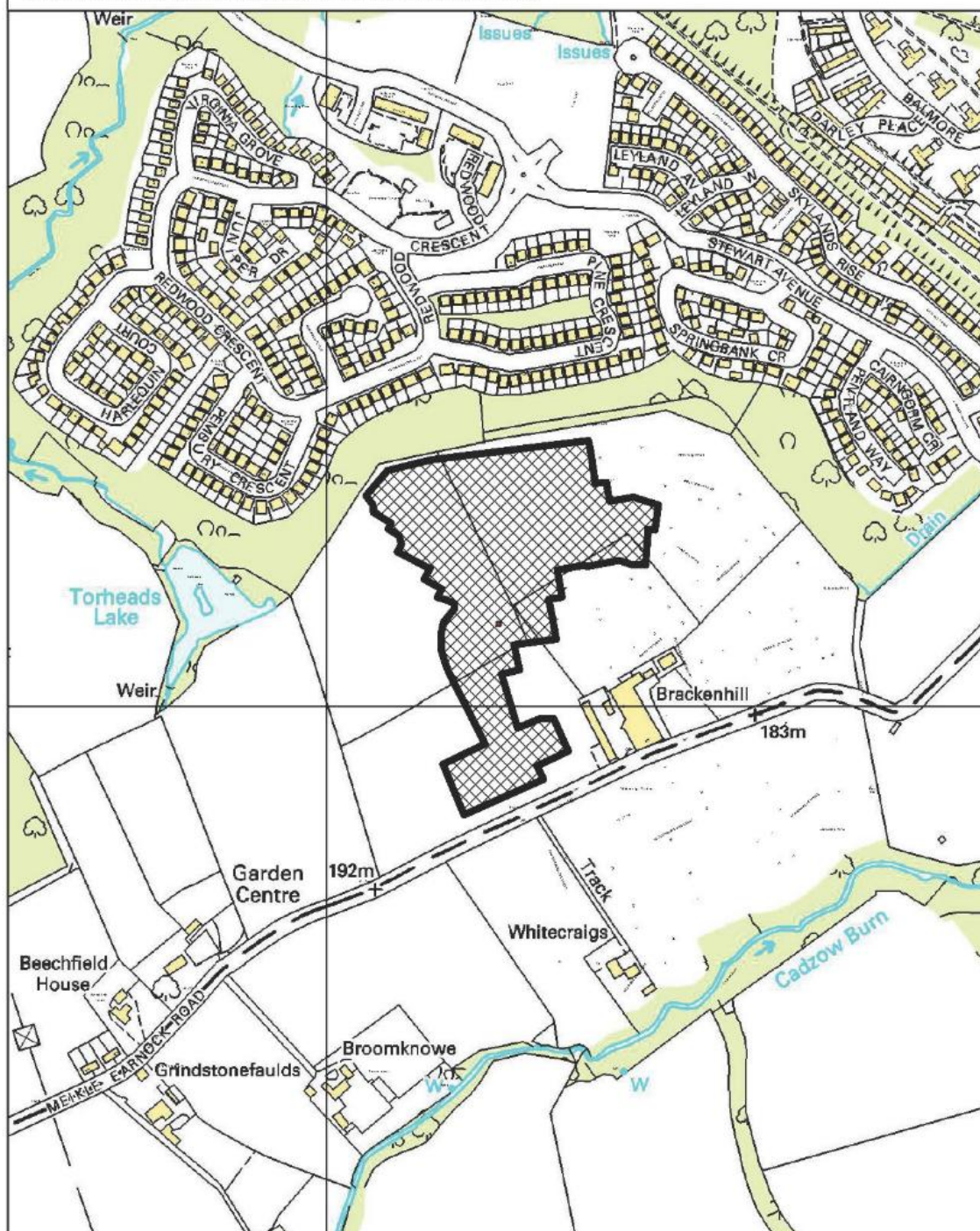
Reason: To ensure the satisfactory integration of the development in terms of pedestrian and cycle movement.

- 30 That before the development starts, a certificate or report from a recognised firm of chartered engineers shall be submitted to the Council as Planning Authority confirming the structural stability of the retaining walls shown on the submitted layout plans (as detailed in Informative 1 attached). Thereafter the developer shall incorporate the full recommendations and requirements of the certificate or report in the design and construction of the development approved under this consent.

Reason: In the interest of public safety.

P/21/1148

Area D, Site of former Brackenhill Farm, Meikle Earnock Road



© Crown copyright and database rights 2013 OS 100020730. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:5,000  
Date:  
18/11/2021



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Economic Development



# Report

9

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/1391
Planning proposal:	Residential development comprising 105 dwellings, MUGA, landscaping and associated infrastructure

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	Bancon Homes and HJ Paterson
Location:	Land 115M Northwest of 52 Rickard Avenue Rickard Avenue Strathaven 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.

## 3 Other information

- ◆ Applicant's Agent:
- ◆ Council Area/Ward: 05 Avondale and Stonehouse
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2 (Adopted 2021)**  
Policy 1 Spatial Strategy  
Policy 2 Climate Change  
Policy 3 General Urban Areas  
Policy 5 Development Management and Placemaking  
Policy 7 Community Infrastructure Assessment  
Policy 11 Housing  
Policy 12 Affordable Housing  
Policy 13 Green Network and Greenspaces  
Policy 14 Natural and Historic Environment  
Policy 15 Travel and Transport  
Policy 16 Water Environment and Flooding

◆ **Representation(s):**

▶	20	Objection Letters
▶	0	Support Letters
▶	3	Comment Letters

◆ **Consultation(s):**

Roads Development Management Team

Environmental Services

Roads Flood Risk Management

Scottish Water

West of Scotland Archaeology Service

SP Energy Network

Estates Services - Housing and Technical Resources

Countryside and Greenspace

Community and Enterprise Resources - Play Provision Community Contributions

Education Resources School Modernisation Team

Housing Planning Consultations

Arboricultural Services

National Grid UK Transmission

Strathclyde Partnership for Transport (SPT)

Strathaven and Glassford Community Council

## **Planning Application Report**

### **1 Application Site**

- 1.1 The site, which is known as Phases 3 and 4, extends to approximately 8.8 hectares and is part of the larger East Overton Masterplan site of 22.6 hectares. The site is located on the northeast edge of Strathaven. Phase 3 is located west within the masterplan to the north of Phase 2 and the existing East Overton House. It is bounded to the west by surplus Council owned land and to the east by the established Phase 1. Phase 4 is located north within the masterplan. To the north is greenfield land which has been recently zoned for further residential development, known as the East Overton extension area, which would be subject of a separate masterplan in the future. The eastern boundary comprises a length of mature tree belt and beyond to the greenbelt. A section of land to the north of Phase 3 and to the west of Phase 4 is designated for business use within the approved masterplan with access provided from the existing Hamilton Road industrial area.
- 1.2 The application site is irregularly shaped and relatively flat. Vehicular access to these two phases would be taken via the existing infrastructure constructed as part of the earlier phases, linking through to the roundabout on Glassford Road. Phases 3 and 4 are essentially the final private housing phases of the East Overton Masterplan site.
- 1.3 Phase 3 shows two hammerheads proposed on the western boundary, puncturing into Council owned land which also lies within the masterplan boundary. These are intended to link with a future affordable housing proposal which it is understood would be brought forward in the near future under cover of a separate planning application.

### **2 Proposal(s)**

- 2.1 Planning permission in principle (PPP) was granted in December 2014 (EK/12/0003) following Committee approval in March 2012. As stated above, this application is the third and fourth phase of the East Overton Masterplan area. Detailed planning permission is sought for a residential development of 105 dwellings on the site, a MUGA and recreational area together with landscaping and associated infrastructure.
- 2.2 More specifically, in terms of layout, the proposal comprises two phases. Phase 3 has 54 dwellings and Phase 4 has 51 dwellings. 15 different house types are proposed, mainly detached dwellings. Within Phase 3, some semi-detached and terraced are proposed. All the properties are two-storey design, with 2, 3, 4 and 5 bedrooms some with integral garages or detached garages. The materials to be used are a mix of dry-dash render finish, cedar weatherboard cladding and fyfestone blockwork. Concrete roof tiles together with UPVC windows are also proposed.
- 2.3 Phase 3 of the layout would link into the first phase of the masterplan site via two access roads, known as Henderson Way, Baron Todd Road. The layout would link with the established internal road network of the established housing to access Glassford Road via the existing roundabout. As mentioned above, it is intended that Phase 3 would link to the west with an area of Council owned land where a future affordable housing proposal would be brought forward in the near future under cover of a separate planning application.
- 2.4 Phase 4 would be connected with the established first phase of development via Rickard Avenue, Black Street and Rees Way and would ultimately link into the future masterplan site (East Overton extension area) lying to the north. The overall layout includes the formation of a large recreational area including a MUGA. Informal

footpaths are proposed through established peripheral woodland which is located along the northern edge of Phase 3 and the western edge of Phase 4. A footway and cycleway are proposed from the layout to link through to Hamilton Road. A large mature sycamore tree located adjacent to the northern boundary of Phase 3 is to be retained and an area of open space proposed creating a landscape feature at this locale.

- 2.5 As required by the PPP, the development will incorporate the principles of Sustainable Urban Drainage (SUDS) with the development linking into an established drainage pond located within the northeast corner of the site. Peripheral recreational footpaths are proposed along this northeast section of the site linking to the established Phase 1 footpath network.

### **3 Background**

#### **3.1 Local Plan Status**

- 3.1.1 In determining this planning application, the Council must assess the proposed development against the policies contained within both the adopted South Lanarkshire Local Development Plan 2 (2021) and Supplementary Guidance (SG) produced in support of the SLLDP2.
- 3.1.2 In land use terms, the application site is identified within the adopted SLLDP2 as forming part of the Council's housing land supply (Policy 12) within the general urban area (Policy 3) and as forming part of the green network and greenspaces area (Policy 13). Policy 3 requires that new proposals should not adversely impact on the amenity and character of such areas. In terms of Policy 12, their development for residential purposes is supported (subject to compliance with normal development management criteria), as this will assist the Council in meeting its housing needs. Policy 13 advises that the partial loss of such areas may be considered acceptable where the retention and enhancement of any remaining network area can be assisted by the redevelopment proposal.
- 3.1.3 With regard to normal development management criteria, a number of additional policies within the adopted SLLDP2 are considered appropriate as follows:-
- Policy 2 – Climate Change
  - Policy 5 - Development Management and Placemaking
  - Policy 7 - Community Infrastructure Assessment
  - Policy 12 - Affordable Housing
  - Policy 14 - Natural and Historic Environment
  - Policy 15 - Travel and Transport
  - Policy 16 - Water Environment and Flooding
- 3.1.4 In addition, the Council has prepared a Residential Design Guide. The aim of the associated policies and guidance is to seek well designed development which is located in appropriate locations and is appropriately serviced. An assessment of the proposal against these specific policies is contained in Section 6 of this report.

#### **3.2 Relevant Government Advice/Policy**

- 3.2.1 Relevant Government guidance is set out within the consolidated Scottish Planning Policy (SPP) 2014 and National Planning Framework 3 (NPF3). NPF3 aims to facilitate new housing development, particularly in areas where there is continuing pressure for growth. SPP introduces a presumption in favour of development that contributes to sustainable development. In terms of residential development, the SPP advises that 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. The Council must also maintain a five-year supply of effective housing land.

### 3.3 **Planning Background**

- 3.3.1 In land use terms, the site is identified within the adopted South Lanarkshire Local Development Plan 2 as part of the East Overton Residential Masterplan. Planning permission in principle (PPP) was granted in December 2014 (EK/12/0003). As stated above, this proposal forms the third and fourth phases of the approved PPP. The principle of residential development is therefore established.

## 4 **Consultation(s)**

- 4.1 **Roads Development Management Team** – No objections to the proposed layout, subject to standard conditions including parking provision and site drainage. It should be noted that discussions have been ongoing in connection with the phasing of development, in particular the upgrading works to Berebriggs Road for which a Road Construction Consent has been submitted by the applicants and is under consideration.

**Response:** Noted. Any consent would have appropriately worded conditions attached to reflect the above including the requirement to upgrade Berebriggs Road.

- 4.2 **Environmental Services** – No objections subject to conditions relating to noise impact assessment and construction noise.

**Response:** Noted. Appropriately worded conditions can be attached to any consent issued.

- 4.3 **Roads Flood Risk Management** – have no objections to the application subject to the undertaking of a Flood Risk/Drainage Assessment in accordance with the latest industry guidance listed within the Council's Developer Design Guidance Note dated May 2020 and the provision of a sustainable urban drainage system (SUDS) within the site.

**Response:** Appropriately worded conditions can be attached to any consent issued.

- 4.4 **Scottish Water** – No objections.

**Response:** Noted.

- 4.5 **West of Scotland Archaeology Service (WOSAS)** – Advises that the application affects ground which has not yet been subject to intrusive evaluation trenching. Therefore, the developer will require to secure the implementation of a programme of archaeological works to the satisfaction of WOSAS and the Council.

**Response:** Noted. The developer is aware of this and an appropriately worded condition would be attached to any planning consent.

- 4.6 **SP Energy Network** – No objections. It should be noted that SP Distribution PLC reserve the right to protect and/or deviate their cable /apparatus at the applicant's expense.

**Response:** Noted.

- 4.7 **Estates Services - Housing and Technical Resources** – No objections.

**Response:** Noted.

- 4.8 **Countryside and Greenspace** – No response to date.

**Response:** While no formal response has been received to date, this layout proposes a generous amount of open space, informal woodland pathways to link with the established first phase of development as well as the wider surrounding area. A quality landscape scheme has also been lodged.

- 4.9 **Community and Enterprise Resources - Play Provision Community Contributions** – Verbally advised have no objections.  
**Response:** Noted. The application is covered by the original Section 75 Legal Agreement which covered the overall East Overton masterplan site. However, within that S75 the Community contribution had been agreed and has been paid in full to the Council during the construction of the first phases (1 and 2).
- 4.10 **Education Resources School Modernisation Team** – No objections.  
**Response:** Noted. The application is covered by the original Section 75 Legal Agreement which covered the overall East Overton masterplan site (EK/12/0003). However, within that S75 the Community Contribution had been agreed and has been paid to the Council during the construction of the first phases (1 and 2).
- 4.11 **Housing Planning Consultations** – No objections and are happy to support this private housing development.  
**Response:** Noted. It is understood that Housing Services are in discussion with Bancon Homes to agree in principle a housing mix for around 32 affordable housing units on Council owned land adjacent to Phase 3. As explained above, in respect of the proposed affordable housing on the adjacent land, a separate planning application would require to be lodged and given due consideration. In respect of Phase 4, Housing Services are agreeable to taking a commuted sum, in lieu of on-site affordable housing provision.
- 4.12 **Arboricultural Services** – No response to date.  
**Response:** While no formal response has been received to date, the Council's Arboricultural Officer was supportive of the retention of the peripheral woodland and the introduction of open space around an existing large Sycamore to create a landscape feature. Additional tree planting is also proposed to enhance the Green Network.
- 4.13 **National Grid UK Transmission** – No response to date.  
**Response:** Noted
- 4.14 **Strathclyde Partnership for Transport** – No objections.  
**Response:** Noted
- 4.15 **Strathaven and Glassford Community Council** – No response to date.  
**Response:** Noted

## 5 Representation(s)

- 5.1 Statutory neighbour notification was undertaken and the proposal was also advertised in the local press as not all neighbours could be identified. Twenty letters of objection and three letters of comment were received, the points of which are summarised below:-

### a) Pleased with play area but better access required to communal path to Hamilton Road.

**Response:** The play area, to the west of phase 4 will enhance the facilities for recreation within the overall masterplan site. The link through to Hamilton Road will be 3 metres wide from the phase 3 section of the development to provide for pedestrians and cyclists. This section will require to be lit. It will link into the informal woodland path network or, alternatively, pedestrians can connect through the residential layout via the internal road and pavement network.

- b) **Access via streets like Rickard Avenue and Fleming Boulevard within the existing estate means huge increase in traffic volume and flow of traffic going past the play park. Current traffic calming measures are inadequate. With 105 houses proposed and potentially 210 more cars, another route should have been made off Hamilton Road or within the new development itself. A single point of access off the roundabout on Glassford Road is unacceptable.**

**Response:** The Council's Roads Service has carefully assessed the proposed road layout in detail in discussion with the developer's traffic consultant. It is considered that the proposed layout is acceptable in terms of traffic and pedestrian safety and that it would not be appropriate to have a vehicular access from the site to Hamilton Road or within the new development itself. The new road network, together with the existing estate's roads and the Glassford Road roundabout have been designed to national roads standards including the design of traffic calming measures and forward visibility splays to encourage drivers to safely manoeuvre through the estate at lower speeds.

- c) **It is perceived that the proposal will bring traffic congestion, access issues and most of all safety problems for children on the established estate.**

**Response:** As stated above under b), the proposed roads layout and access points have been assessed by the Council's Roads Engineers and are found to be satisfactory in terms of traffic and pedestrian safety.

- d) **Plot 43 is likely to compromise light and overshadowing to existing house.**

**Response:** Careful assessment has been made in respect of the positioning of this house, its blank gable of which is around 15.9 metres distance from the rear elevation of the existing dwelling which faces west. It is considered that, given the westerly aspect, this is adequate distance to ensure that no significant amenity is compromised in terms of loss of light and or overshadowing.

- e) **Concern for the privacy of an entire row of houses as it is not in anyone's interest to see a whole range of household gardens.**

**Response:** The layout has been carefully assessed to ensure that it meets the Council's requirements in window to window distancing in terms of the Council's Residential Design Guide. It is a common occurrence in modern residential developments that householders can view other householders' gardens.

- f) **There is no clear separation between house at 1 Black Street and Plot 43. Who maintains this section? Some landscaping should be introduced.**

**Response:** This area between the feature wall and the rear boundary fencing of the houses in Black Street will be planted in grass and will be maintained through a factoring arrangement. There is clear separation as there is an existing rear boundary fence. It is understood a narrow strip of ground running north to south along the rear boundary fencing is a drainage wayleave.

- g) **Concern that adjacent new houses will not fit in with the existing houses in terms of finishing materials.**

**Response:** Each individual developer generally has its own pallet of finishing materials. It is considered that although some of the materials and styles may be contrasting, within a modern development setting, this is acceptable and adds to interest and variety.

- h) **Plot 43 should be removed and the road closed off to provide distinct separation from David Wilson/Taylor Wimpey and the new development.**

**Response:** The roads layout as proposed is acceptable to the Roads Service and with two accesses serving Phase 3, this will provide better circulation of traffic. Removing Plot 43 and closing off the access at this location is considered unnecessary.

- i) **Shared space approach should be considered to encourage drivers to be aware of their surroundings and to slow down.**

**Response:** In this instance the traditional roads layout of road and contiguous footpaths has been adopted and has been designed to the satisfaction of the Roads Service.

- j) **Privacy will be violated. Back row of houses should be spaced further down.**

**Response:** In terms of the Council's Residential Design Guide acceptable window to window distances are achieved between the existing dwellings on Rees Way and the new dwellings proposed to the north.

- k) **Concern as to whether the previous planning condition requiring Berebriggs Road to be upgraded will be met.**

**Response:** A condition would be attached to any planning consent to introduce carriageway widening along Berebriggs Road to permit two-way flow along its length prior to commencing phase 3 or 4 of the development, or otherwise agreed by the Council.

- l) **Adding hundreds of more cars to the surrounding road network and junctions at Glassford Road/Commercial road is irresponsible traffic management. A roundabout is required here.**

**Response:** As stated in b) above, the Roads Service has carefully assessed the proposed layout including against the capacity of the surrounding road network. They are satisfied that with the upgrade of Berebriggs Road the additional vehicles, as a result of the new dwellings, can be accommodated within the new road layout and the surrounding local road network.

- m) **Although the new recreational equipment is to be welcomed it may attract people from the wider Strathaven area which may result in additional traffic in and around the estate. CCTV should be a requirement at the new recreational area together with dog bins.**

**Response:** it is anticipated that the new play facilities will be used mainly by residents who live within walking and cycling distance so increased vehicle movements is unlikely. CCTV is considered inappropriate at this location and dog bins would be installed if there was a requirement once the new development is completed.

- n) **Please give all possible protection to all wildlife, flora and fauna, eg Moles, hedgehogs, weasles, stotes, nesting birds.**

**Response:** Peripheral woodland is being retained and the proposed landscape plan indicates significant planting including native hedge planting which will be advantageous to wildlife.

- o) **There is a lot of wildlife in the fields to the rear of Rees Way. The new houses will kill them all. Also frogs which may be protected in adjacent field drain.**



**Response:** An ecology report was undertaken to support the planning application. No concerns for protected species were noted. Peripheral woodland is being retained and the proposed landscape plan indicates significant planting including native hedge planting which will be advantageous to wildlife. The SUDs area which is established is likely to encourage amphibians given the wet nature of this section of the site.

**p) It is assumed that the proposal will include affordable housing.**

**Response:** It is understood that affordable housing adjacent to Phase 3 will be proposed through a separate planning application in the near future and a financial contribution will be required to be paid by the developer to the Council in lieu of the provision of on-site affordable housing at phase 4. This is controlled through the original Section 75 which relates to all phases of the development.

**q) The layout of Plot 64 is far too close to the back gardens of 2 and 4 Rees Way. Privacy and the lack of light are the issues.**

**Response:** The house type on Plot 64 has been changed and re-positioned on the plot together with a single garage introduced between its gable and the rear boundary fencing of the Rees Way dwellings. This adjustment is satisfactory and results in no significant amenity impact on the existing dwellings, in terms of privacy or lack of light issues.

**r) The development will make Berebriggs Road even more dangerous as people will use it to connect to the A71.**

**Response:** As mentioned above, Berebriggs Road requires to be upgraded. A condition would be attached to any planning consent to introduce carriageway widening along Berebriggs Road to permit two-way flow along its length prior to commencing phase 3 or 4 of the development, or otherwise agreed by the Council.

**s) The application site floods in winter. Building on it would put other residential properties at greater risk.**

**Response:** There is an overarching flood risk assessment relating to the Masterplan site. The developer will be required to ensure the flood risk information is comprehensive and up to date and appropriate drainage would be designed to ensure that the area does not flood nor that there is run-off affecting existing properties. The new development will be linked to an existing SUDs pond in the northeast corner of the site.

**t) Ensure adequate ground levelling and distancing between properties (Plot 54 and 22 Henderson Way) is achieved together with adequate drainage and existing field drains are maintained to prevent surface water from encroaching into existing gardens.**

**Response:** The levels at this location appear generally at grade with the established houses. With the dwellings being perpendicular to one another and with 10 metres distance achieved between the gable of 22 Henderson Way and Plot 54's rear elevation it is considered that the layout is acceptable in amenity terms. It will be a requirement of the developer to install surface water adequate drainage to prevent ponding in gardens.

**u) Will the Council take on maintenance of these open space areas?**

**Response:** The Council will not maintain the areas, rather a factoring arrangement will be set up for future maintenance of the open space and play area and facilities.

- v) **Can an entrance from Overton Park off Hamilton Road be inserted to allow quicker access to the development from a major trunk road.**

**Response:** This is considered inappropriate and the land required is not in the control and ownership of the developer.

- w) **Concern expressed that the sales team at Bancon Homes are stating that the development has already been approved, and that this application is just a formality.**

**Response:** The sales team has been made aware of this concern. The principle of residential use on this land has been established through the approval of the original East Overton Masterplan, EK/12/0003. However, every phase of development requires a detailed assessment through a detailed planning application submission, in terms of the design and layout of the houses, roads, landscaping, drainage etc. In this respect careful consideration against local development plan policy, consultation with statutory consultees and other Council Guidance over the period of consideration has taken place.

5.2 These letters are available for inspection on the planning portal.

## **6 Assessment and Conclusions**

- 6.1 Detailed planning permission is sought for 105 dwellings divided into phases 3 and 4 of the development, 54 and 51 dwellings respectively. The applicant is Bancon Homes Ltd and Patersons Partners. Bancon Homes is developing Phase 2 at East Overton which is well under construction and nearing completion. The determining issues in the assessment of this application are compliance with local plan policy, its impact on the amenity of the adjacent properties and road safety matters.
- 6.2 In terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, planning applications have to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 6.3 Scottish Planning Policy (SPP 2014) and National Planning Framework 3 (NPF3), highlights that development proposals which accord with up-to-date plans should be considered acceptable in principle. The site is identified within the adopted South Lanarkshire Local Development Plan 2 as a housing site and, therefore, raises no issues in this regard as detailed in paragraph 6.4 below.
- 6.4 This application is a detailed planning application. However, the principle of residential development has been firmly established by approval in December 2014 of the East Overton Masterplan planning permission in principle (PPP), EK/12/0003.
- 6.5 With regard to the adopted South Lanarkshire Local Development Plan 2 (2021) (SLDP2) and associated Supplementary Guidance (SG), the application site, as stated above, is identified as being a proposed housing site (Policy 11) and located within a general urban area (Policy 3), together with being part of the Green Network and Greenspaces (Policy 13). The proposed development layout has endeavoured to enhance the green network through the design of a large open space area together with retention of significant belts of established woodland which would be enhanced for recreational use by the introduction of informal footways which link with the earlier phases and the wider surrounding area. In addition, quality landscaping is proposed involving significant tree and hedgerow planting, and therefore it is considered that the proposal accords with Policy 13 and its supporting guidance. Residential development of the site is, therefore, acceptable, subject to compliance with normal development management criteria.

- 6.6 The issues considered relevant from a development management perspective, are set out within Section 3.1 above. Principally, these policies seek to ensure that any development within an area which is predominantly residential in character does not adversely impact on the amenity of such areas and that any such proposal can be adequately served by appropriate services. Where possible, the proposed development seeks to minimise and mitigate against the effects of climate change (Policy 2). The overall design and layout are considered to provide a very high quality residential area which complies with the relevant planning policies. I am, therefore, satisfied that the scheme is capable of being developed, subject to conditions, without conflict with the general requirements of the applicable policies and guidance. The layout complies with the Council's approved Residential Design Guide in terms of window to window distances, plot size and permeability. Furthermore, it is noted that the site will be linked to the surrounding area with a footway/cycle link onto Hamilton Road and is within walking distance of a bus route. As such, this accessibility in terms of walking, cycling and public transport would ensure that the proposed development would minimise and mitigate against the effects of climate change.
- 6.7 No specific concerns, subject to conditions, have been raised by the various consultees. The site is classed as an urban location, albeit that it is on the edge of Strathaven. Sewerage and water infrastructure is accessible. On this basis, it is considered that the proposal accords with Policy 16 and the associated policies within the supplementary guidance.
- 6.8 The proposal will result in the development of the 3<sup>rd</sup> and 4<sup>th</sup> phases of a larger Masterplan site, with phase 1 already established and phase 2 nearing completion. I am satisfied that the proposal has been designed in such a manner that it takes cognisance of the surrounding area and has properly assessed any impact on the adjacent historic building known as East Overton House. The proposal, therefore, accords with Policies 14 and 15. Furthermore, the site is capable of integrating well with the adjacent Phases 1 and 2 development's road and footpath network and amenity areas. The formation of a footway/cycle link with Hamilton Road together with informal recreational footpaths through the established woodland corridor around the edges of the layout are also proposed. Furthermore, a large recreational area including a MUGA is proposed adding additional amenity opportunities for existing and new residents alike.
- 6.9 The Council's adopted policy on Community Infrastructure Assessment (Policy 7) advises that a financial contribution from developers will be sought where it is considered that a development requires capital or other works or facilities to enable the development to proceed. In this instance, the community infrastructure contributions for community and education facilities, were agreed at the earlier planning permission in principle (PPP) stage, under EK/12/0003. Staged payments were secured through the original Section 75 Legal Agreement associated with this PPP and have been paid in full to cover up to 480 units. This proposal is for an additional 105 units at this Masterplan site. It is understood that around 32 affordable houses will be developed on Council owned land directly to the west of phase 3. This will be considered under a separate planning application, and it is understood that it is to be lodged in the near future. A financial contribution in lieu of on-site provision of affordable housing will be received from the developer in relation to phase 4.
- 6.10 The third party comments letters received raised some minor design issues and have been responded to by the applicants who have made minor adjustments to the layout. Any requirements of the various consultees can be addressed through the use of conditions, where appropriate to do so.

6.11 In conclusion, the proposed development has been considered against the relevant policies in the adopted South Lanarkshire Local Development Plan 2 and its appropriate supplementary guidance. In terms of detailed design and layout, the proposed dwellings offer a quality living environment for residents and are of a quality and style in keeping with those within phases 1 and 2. In terms of the Council's Residential Design Guide (2011), each property/plot can meet the requirements in terms of window to window distances, plot ratios and parking requirements. I am, therefore, satisfied that the proposed scheme will integrate successfully with the surrounding area, including the historic building East Overton House. It is, therefore, considered that the proposal fully complies with the adopted South Lanarkshire Local Development Plan 2 and recommend that planning permission be granted subject to the conditions listed.

## **7 Reasons for Decision**

7.1 The proposal has no adverse impact on residential or visual amenity and raises no road safety concerns. The development complies with the provisions of the adopted South Lanarkshire Local Development Plan 2 (adopted 2021) namely (Policies 1 - Spatial Strategy, 2 - Climate Change, 5 - Development Management and Placemaking, 7 - Community Infrastructure Assessment, 11 - Housing, 12 - Affordable Housing, 13 - Green Network, 14 - Natural and Historical Environment, 15 - Travel and Transport and 16 - Water Environment and Flooding).

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

Date: 2 December 2021

### **Previous references**

◆ EK/12/0003

### **List of background papers**

▶ Application form	
▶ Application plans	
▶ South Lanarkshire Local Development Plan 2 (adopted 2021)	
▶ Neighbour notification letter dated 4 August 2021	
▶ Consultations	
Roads Development Management Team	24.11.2021
Environmental Services	13.09.2021
Roads Flood Risk Management	29.11.2021
Scottish Water	16.08.2021
West of Scotland Archaeology Service	18.08.2021
SP Energy Network	04.08.2021
Estates Services - Housing and Technical Resources	03.08.2021
Community and Enterprise Resources - Play Provision	01.09.2021
Community Contributions	
Education Resources School Modernisation Team	06.10.2021

Housing Planning Consultations	14.10.2021
SPT	16.08.2021
► Representations	Dated:
Lisa Paton, 4 Rees Way, Strathaven, South Lanarkshire, ML10 6GR	30.08.2021
Mrs Lindsay Galloway, 7 Fleming boulevard, Strathaven, ML10 6GU	30.08.2021
Mr Charles Beattie, 2 Rees Way, Strathaven, Strathaven, ML10 6GR	24.08.2021
Mrs S Irshad, 16 Rees Way, Strathaven, ML10 6GR	06.08.2021
Mrs Shabana Irshad, 16 Rees Way, Strathaven, ML10 6GR	06.08.2021
Mrs Fiona Hunter, 2 Fleming Boulevard, Lauder Gardens, Strathaven, ML10 6GU	09.08.2021
Mr Alastair Hunter, 2 Fleming Boulevard, Strathaven, ML10 6GU	30.08.2021
Mrs Jennifer McLeish, 10 Rees Way, Strathaven, ML10 6GR	10.08.2021
Mr Richard Sandilands, 14 Fleming Boulevard, Strathaven, ML10 6GU	06.08.2021
Mr Glen Crake, 22 Rickard Avenue, Strathaven, ML10 6GW	06.08.2021
Mrs Louise Berkley, 5 Fleming Boulevard, Strathaven, ML10 6GU	09.08.2021
Holly McGhee, Via Email	15.08.2021
Mr Andrew Webb, 3 Fleming Boulevard, Strathaven, South Lanarkshire, ML10 6GU	06.08.2021
Mr Euan Cumming, 3 Fleming Boulevard, Strathaven, ML10 6GU	06.08.2021
Dr Cathy Lenaghan, 14 Rickard Avenue, Strathaven, ML10 6GW	06.08.2021
Mr Desmond Wilmot, 3 Ramsay Mews, Strathaven, ML10 6GN	03.09.2021
Mrs Mandi McGurk, 2 Rickard Avenue, Strathaven, ML10 6GW	07.08.2021
Amer Irshad, Received Via Email	10.09.2021
Mrs Lyndsey Shankland, 17 Rickard Avenue, Strathaven, ML10 6GW	07.08.2021

Mrs Claire Knight, 12 Fleming Boulevard, Lauder Gardens, Strathaven, ML10 6GU	06.08.2021
Joe Allan, 94 Franklin Place, East Kilbride, G75 8LS	22.08.2021
Mr Przemyslaw Latka, 22 Henderson Way, Strathaven, ML10 6GS	25.08.2021
Mr Amer Irshad, 1 Black Street, Strathaven, ML10 6GL	08.08.2021

**Contact for further information**

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

Maud McIntyre, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455043

Email: [maud.mcintyre@southlanarkshire.gov.uk](mailto:maud.mcintyre@southlanarkshire.gov.uk)

### Conditions and reasons

01. 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.

Reason: In the interests of amenity and in order to retain effective planning control.

02. That before the dwellinghouses hereby approved are completed or brought into use, a private vehicular access or driveway of at least 6m metres in length shall be provided and the first 2 metres of this access from the heel of the footway/service strip shall be hard surfaced across its full width to prevent deleterious material being carried onto the road.

Reason: In the interests of traffic and public safety and to prevent deleterious material being carried onto the carriageway

03. That the driveway dimensions shall be detailed as per the National Roads Development Guide, 3m x 6m for each parking space. These dimensions exclude pedestrian access. To allow a garage to count as a space it will require to meet the minimum dimensions as per the National Roads Development Guide, an internal minimum size of 3m x 7m, unless otherwise agreed.

Reason: To ensure adequate on-curtilage parking is provided.

04. That a suitable system of site drainage shall be required to prevent surface water flowing onto the public road, details of which shall be submitted for consideration and approval to the Council as Planning and Roads Authority.

Reason: 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.

05. That all construction and/or other vehicles shall be able to access and exit the site in forward gears, therefore a turning area must be provided, together with sufficient parking to accommodate all site staff/operatives parking requirements, details to be submitted for approval in writing by the Council as Planning and Roads Authority.

Reason: In the interests of traffic and public safety.

06. That access to all off street parking should be by means of a drop kerb footway / service strip crossing. All service strip crossings should be constructed as footway / carriageway specification.

Reason: In the interests of traffic and pedestrian safety.

07. That the applicant shall provide a Traffic Management Plan (TMP), including details of the haul road link with the industrial estate, the traffic routes of construction

vehicles, site compound, show where all vehicles and deliveries will be located, on-site parking and wheel washing facilities/road cleaning systems. The TMP should restrict all site work (incl. vehicle movements) from operating within the school opening and closing times, unless otherwise agreed. No work shall commence until the TMP has been approved in writing by the Council as Planning Authority.

Reason: In the interests of road and public safety.

08. That the introduction of carriageway widening along Berebriggs Road shall be undertaken to permit two way flow along its length prior to commencing phase 3 or 4 of the development, or otherwise agreed by the Council as Planning Authority.

Reason: In the interests of traffic and public safety.

09. That all new residents within the approved site shall be issued by the applicant with a Residential Travel Pack.

Reason: To encourage the use of public transport, walking and cycling.

10. That prior to commencement of works on site, details of provision of vehicle electric charging points associated with each dwelling shall be submitted to and approved in writing by the Council as Planning and Roads Authority.

Reason: In the interests of climate change.

11. That the surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland and with the Council's Sustainable Drainage Design Criteria (or any subsequent updated version of this guidance) and shall be agreed in writing with the Council as Planning Authority in consultation with SEPA.

Reason: 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.

12. That prior to commencement of works on site the applicant shall submit a flood risk assessment is to be carried out in accordance with the latest industry guidance. Copies of the self-certification and Independent Check certificates contained within Appendices A and B (refer to the Council's developer design guidance May 2020) duly signed by the relevant party is to be submitted.

Reason: In order to ensure the risk of flooding to the application site from any source is at an acceptable level as defined in the Scottish Planning Policy and there is no increase in the future flood risk to adjacent land as a result of the proposed development.

13. That prior to commencement of works, a drainage strategy to support development Phase 3 and 4 and a sustainable drainage system serving the application site, designed and independently checked in accordance with the Council's current developer design guidance May 2020 is to be provided. Copies of the self-certification and Independent Check certificates contained within Appendices C and D (refer to the Council's developer design guidance May 2020) duly signed by the relevant parties are to be submitted.



Reason: To ensure the provision of a satisfactory land drainage system.

14. That the approved landscaping scheme (Drawing No. **BH255-BHL-XX-XX-DR-A-L(90)001 P03**) shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following occupation of the buildings 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 amenity.

15. That prior to any work commencing on the site, a maintenance management schedule for the landscaping scheme approved under the terms of Condition 14 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.

Reason: In the interests of amenity and to retain effective planning control.

16. That prior to the completion, or occupation, of the last dwellinghouses within the development all of the works required for the provision of equipped play area(s) included in the scheme hereby approved, shall be completed, and thereafter, that area shall not be used for any purpose other than as an equipped play area.

Reason - In order to retain effective planning control

17. 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.

Reason: In the interests of amenity.

18. That no development shall commence on site until the applicant provides written confirmation from Scottish Water to the Council as Planning Authority that the site can be satisfactorily served by a sewerage scheme designed in accordance with Scottish Water's standards.

Reason: In order to retain effective planning control.

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.

Reason: In order to retain effective planning control.

20. That details of the construction and makeup of the footpath/cycleway linking the development with Hamilton Road and the peripheral woodland footpaths shall be submitted for approval in writing by the Council as Planning Authority within 3 months of the date of this consent. For avoidance of doubt the 3 metre wide footpath/cycleway shall incorporate a pedestrian barrier, drainage and street lighting.

Reason: These details have not been submitted.

21. The footpath/cycleway and peripheral woodland footpaths referred to in Condition 20 above shall be implemented and operational prior to the completion of the last dwellinghouse. Thereafter, the footpath/cycleway shall be constructed and maintained to the satisfaction of the said Authority.

Reason: To encourage the use of public transport, walking and cycling.

22. Where the footpath/cycleway, referred to in Conditions 20 & 21 above meets Hamilton Road, the existing footway, over the boundary of the applicants' site, shall be widened to a minimum of 2 metres to the satisfaction of the Council as Roads Authority.

Reason: In the interests of public safety.

23. That no development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

Reason: In order to safeguard any archaeological items of interest or finds.

24. That the applicant shall undertake a noise impact assessment examining the design and use of the proposed outdoor facilities. The report shall consider the noise escape from the skate park and play areas in connection with any nearby residential properties including those being developed. This shall be submitted to the Council within 3 months of the date of the planning permission, and thereafter approved in writing by the Council as Planning Authority. Any measures required to minimise noise shall be implemented prior to the development being brought into use and shall thereafter be implemented in accordance with the approved scheme to the satisfaction of the Council as Planning Authority.  
For the avoidance of doubt, the report shall identify any measures required to ensure that there is minimal noise impact on neighbouring properties and shall include issues such as management of the facilities and hours of operation.

Reason: In the interests of amenity.

25. Prior to commencement of development, or otherwise agreed by the Council as Planning Authority, the applicant shall undertake a noise assessment to determine the impact of noise from (specify relevant sources) on the proposed development. This shall use the principles set out in British Standard BS 4142:2014 - Method for Rating and Assessing Industrial and Commercial Sound, or a method agreed by the Planning Authority. The assessment shall be submitted to and approved by the Planning Authority and shall identify:-

- 1 The maximum Rating Levels-  $L_{Ar,Tf}$  (Including penalties either subjective or objective as appropriate)
- 2 The statistical average Background Noise Level ( $L_{A90,30min}$ ) to which any part of the development will be exposed. The Background Noise Level for the most noise sensitive period that the source could operate shall be used for this assessment.

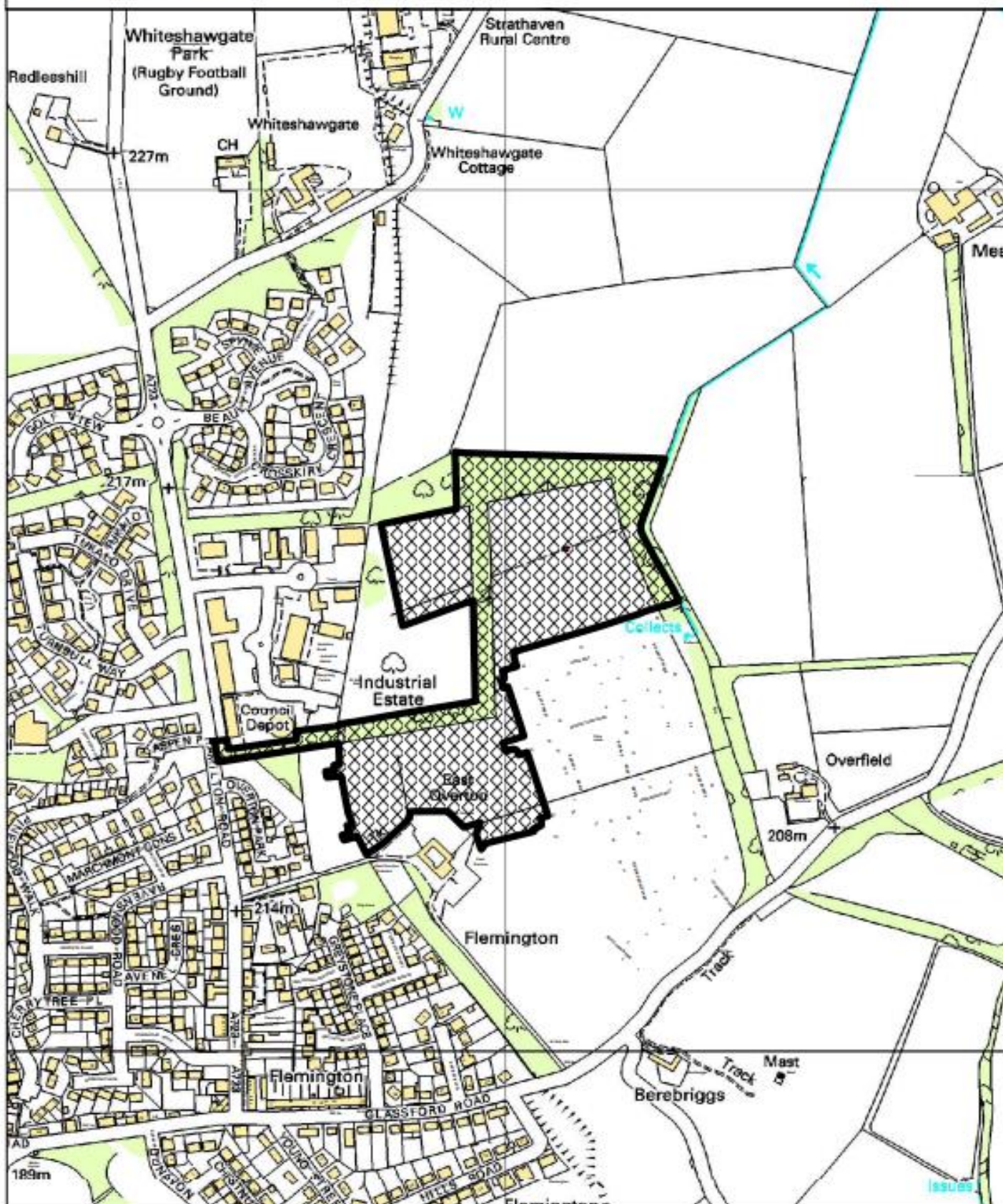
- 3 Details of uncertainty shall be provided accompanied with meteorological data for the measurement period
- 4 The levels should indicate the compliance with:-
  - The external Community noise levels relative to The WHO Community Noise Guideline levels
  - The internal noise levels relative to BS8233:2014 Guidance on sound insulation and noise reduction for buildings.

Where the Level of Significance as described within the Scottish Government Document: Technical Advice Note Assessment of Noise, identifies changes in noise as moderate or greater (assessed with windows open), a scheme for protecting the proposed dwelling(s) from the noise shall be submitted to, and approved by, the Planning Authority. The approved scheme for the mitigation of noise shall be implemented prior to the development being brought into use and where appropriate, shall be retained in accordance with the approved scheme to the satisfaction of the Council as Planning Authority. Any survey submitted should assess the noise effects of commercial vehicle deliveries on adjacent dwellings.

Reason: in the interests of amenity.

P/21/1391

Land 115M Northwest of 52 Rickard Avenue, Strathaven



© Crown copyright and database rights 2019 OS 100020736. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:6,000  
Date:  
21/10/2021



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Economic Development

# Report

10

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/21/1183
Planning proposal:	Substitution of house types (Amendment to consent CL/15/0445)

## 1 Summary application information

Application type:	Further application
Applicant:	Allanwater Homes and Upper Braidwood Development Consortium
Location:	Land 125 metres east of 15 Lanark Road Lanark Road Braidwood Carluke

## 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.

## 3 Other information

- ◆ Applicant's Agent: Sam Sweeney
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2 (adopted 2021)**  
Policy DM1 New Development Design  
Policy NHE9 Protected Species  
Policy 1 Spatial Strategy  
Policy 2 Climate change  
Policy 3 General Urban Areas  
Policy 5 Development Management and Placemaking  
Policy 11 Housing  
Policy 13 Green Network and Greenspace  
Policy 14 Natural and Historic Environment

### ◆ Representation(s):

►

2

Objection Letters

▶	0	Support Letters
▶	1	Comment Letter

♦ **Consultation(s):**

Roads Development Management Team

West of Scotland Archaeology Service (WOSAS)



## **Planning Application Report**

### **1 Application Site**

- 1.1 The application site, extending to 7.60 hectares, is located on Lanark Road in Upper Braidwood and comprises a mixture of sheds, greenhouses, boiler houses, (associated with existing and redundant nurseries), derelict land, an area of scrub, agricultural fields, curtilage of a dwellinghouse, a restaurant and car park. Within the perimeter boundaries but out with the application site are three detached dwellings. Topographically the site rises gradually in a west/east direction and in terms of vegetation cover, there are groups of trees scattered throughout the site and hedgerows along some of the perimeter boundaries.
- 1.2 The site sits within the settlement boundary of Upper Braidwood and is bounded to the west by Lanark Road (A73) (the main road corridor between Lanark and Carluke), a number of private dwellinghouses and beyond by agricultural land; to the east by agricultural land, Old Lanark Road and the large garden of a detached dwelling; to the north by a burn, agricultural fields and a farmhouse and steading; and to the south by residential dwellinghouses and agricultural fields. The site is a combination of 8 separate parcels of privately owned ground.

### **2 Proposal(s)**

- 2.1 The applicant seeks planning permission to substitute house types on 125 of the 140 plots approved under Planning Permission CL/15/0445. The other 15 plots are unchanged as the owners of the land do not wish to sell to the current developer who intends constructing the proposed house substitutions which cover most of the site area. The road/footpath layout, amenity space, play area, landscaping, parking provision etc is the same as the plans for the original approval.
- 2.2 The proposed house types are different in style and design, however, they are on approximately the same footprint as the original approved plots with some minor variations. The proposal comprises 26 bungalows and 99 two storey dwellings (12 semi-detached) ranging from 3 to 5 bedroom. A variety of conventional and contemporary designs are proposed, appropriate to an urban setting. Parking provision has been allocated for each plot based on the number of bedrooms. For one to 3 bedroom dwellings two spaces have been allocated and for 4 bedrooms and above it is three spaces in accordance with current standards.

### **3 Background**

#### **3.1 Local Plan Status**

- 3.1.1 The adopted South Lanarkshire Local Development Plan identifies the vast majority of the site as lying within the settlement boundary of Upper Braidwood. The site is identified as a Proposed Residential Masterplan Site where Policy 1 - Spatial Strategy and Policy 11 - Housing apply. In addition, Policies, 2 - Climate Change, 3 - General Urban Areas and Settlements, 5 - Development Management and Place Making, 13 - Green Network and Greenspace, 14 - Natural and Historic Environment, DM1 - New Development Design and NHE9 - Protected Species are of relevance to the determination of this application.

#### **3.2 Relevant Government Advice/Policy**

- 3.2.1 In terms of residential development, Scottish Planning Policy (SPP) advises that the planning system should identify a generous supply of land to support the achievement of housing land requirements and maintain at least a 5 year supply of land at all times. It should also enable the development of well designed, energy efficient, good quality housing in sustainable locations and focus on the delivery of allocated sites. In terms of development in the rural area, SPP states that most new development should be

guided to locations within or adjacent to settlements. Planning should take every opportunity to create high quality places and direct development to the right places, in particular by encouraging the re-use of brownfield sites.

### **3.3 Planning Background**

- 3.3.1 Planning Permission CL/15/0445 for a residential development comprising 140 dwellings, associated road, infrastructure and landscaping was granted by Planning Committee in April 2016 subject to the conclusion of a Section 75 agreement for financial contributions towards education, affordable housing and community facilities. Once the Section 75 agreement was concluded, the decision notice was issued on 2 November 2018. The terms of the Section 75 agreement transfer to all further approvals within the application site area. Under normal circumstances, without any commencement of development on site this approval would have expired. However, the associated Town and Country Planning (Emergency Period and Extended Period (Coronavirus) (Scotland) Regulations 2021 has extended planning permissions which would otherwise have lapsed during the emergency period further to September 2022, keeping Planning Permission CL/15/0445 live.

## **4 Consultation(s)**

- 4.1 **Roads and Transportation Services** – Since this current application is subject to a previously approved live planning application, previously imposed conditions should be conditioned within any approval of this application. Having reviewed the proposal, there are no changes to plot location or road layout. An informative note should be added which states that this development will require the applicant to promote and implement a Speed Limit Order for the reduction of the posted speed limit from 40mph to 30mph for this section of the A73 Lanark Road. They offer no objections to this application subject to conditions.

In terms of the previous application CL/15/0445, Roads commented that the vehicular access to the site should be via a signalised junction which incorporates microprocessor optimised vehicle actuation (MOVA) control measures, and these signals should be installed by the Council's Traffic Signal Maintenance Contractor. The new junction will be subject to a full detailed design review and will include a pedestrian phase. In addition, further analysis of the existing signalised A73 Stewart Street/Glamis Avenue should be submitted for approval before works start on site. Furthermore, a safety audit should be undertaken and the possible relocation of the existing bus stop should be subject of discussion. A 2 metre wide footway should be included along the frontage of the site where it meets the A73. There will also be a link to Old Lanark Road for cyclists."

**Response:** Noted. If Planning Permission is granted, conditions attached to Planning Permission CL/15/0445 will be applied along with an informative note on a requirement for a Speed Limit Order.

- 4.2 **WOSAS** – have recommended a programme of archaeological investigations prior to the commencement of development on site due to the potential for archaeological finds.

**Response:** This matter can be covered by appropriate condition if permission is granted.

## **5 Representation(s)**

- 5.1 In response to the neighbour notification process and the advertisement of the application in the local press due to non-notification of neighbours, 2 letters of objection and 1 comment letter have been received.



The issues raised are summarised below:-

- a) **Overlooking of existing neighbouring property at 1 Albert Park from Plots 112 / 113 which are two storey semi-detached dwellings.**

**Response:** These two storey dwellings will be relocated elsewhere within the development and replaced by a bungalow. Further, a condition will be attached to ensure the installation of a 1.8m high screen fence and the maintenance of mature trees, where appropriate, along the mutual boundary as a means of protecting privacy.

- b) **Position of Plots 114/115 may result in the loss of sunlight and overshadowing of rear garden.**

**Response:** The proposed plot at 115 is a bungalow and a shadow assessment has concluded that the proposed two storey dwelling at plot 114 will not result in any significant loss of sunlight or cause significant overshadowing.

- c) **Noise and disturbance from the kick about pitch. The kick about pitch and play areas should have been centrally located for ease of access for residents.**

**Response:** This application purely relates to house substitutions - there are no plans to alter the location of the kick about pitch and other amenity spaces, which have been approved by the previous consent. Therefore, the nature of this objection is not relevant to the assessment of this application. Notwithstanding, kick about pitches and play areas are commonplace features within the urban environment and there are intervening dwellings between the objector's house and the proposed kick about pitch. Due to the constraints of the layout and size of the pitch, the location chosen for it was deemed to be the most suitable. It will be primarily used by older children, and it will be within easy walking distance for all residents within the development. There are smaller amenity zones located throughout the development – details of proposed play areas for toddlers and young children have still to be submitted and approved. Environmental Health have separate legislative powers to deal with noise disturbance in the event of any future complaint being received.

- d) **Objector did not receive neighbour notification about previous planning application.**

**Response:** Records in the file for Planning Permission CL/15/0445 indicate that neighbour notification was sent to all neighbouring properties at the time the planning application was submitted.

- e) **Require landscaping plan detailing tree planting and trees to be retained as submitted for the previous approval.**

**Response:** Landscaping plans detailing trees to be planted and retained have been submitted.

- f) **Requested further information on how bats are to be handled during demolition of building and clarification on the usefulness of bat boxes. Due to the time lapse since the approval is the previous bat survey still valid?**

**Response:** Due to the sensitivity of such information details of bat surveys and mitigation measures are not made available to the general public. However, a Licence from Scottish Nature has been applied for, and any impact on Bats or their roosts will be in accordance with recognised standards. An updated bat survey was carried out between May and July this year by a qualified ecologist who recommended mitigation measures including the installation of bat boxes.

- g) **Impact upon natural habitats which are home to many animals including deer, squirrels, hedgehogs, rabbits, birds and a bat roost. What measures will be taken to protect wildlife?**  
**Response:** A residential development has already been approved on the site, therefore, the principle of the development cannot be revisited. Notwithstanding as established by previous ecological surveys, there are no protected habitats or other habitats considered of importance to plants and wildlife affected by the proposal. Other than bats which will be subject of a bat protection plan no other protected species within the application site have been identified during ecological surveys. There is sufficient surrounding countryside and woodland where any displaced animals can recolonise. A condition will be attached to protect nesting birds.
- h) **Will existing conditions apply or will a new set be drawn up?**  
**Response:** Relevant conditions will be re-applied or amended where appropriate. Additional conditions will be attached to take account of climate change objectives and the provision of digital broadband.
- i) **Uncoloured coded houses imply these houses can be built under the current umbrella of this application.**  
**Response:** The applicant does not intend substituting or developing the plots shown white on the submitted layout, however, the proposed dwellings on these plots still benefit from the previous approval CL/15/0445.
- j) **As there is no suitable safe walking route from the site to the local primary school, children will have to be bused or driven to school.**  
**Response:** This is a matter for the parents and the school authority and is discussed further in paragraph 6.11.
- k) **Will there be places for the additional families at the health centre and primary school.**  
**Response:** This site has been identified as being suitable for housing in the current and previous adopted local plans for over 6 years without any issues on the capacity of the health centre to accommodate additional residents being raised. In terms of the previous Planning Permission CL/15/0445, Education Resources did not object subject to the developer providing a financial contribution for education accommodation in the school catchment areas for the site. The terms of the contribution have been set down in a Section 75 agreement between the developers and the Council.
- l) **Why was there a delay in the submission of the application and its final approval? Why was there an amendment to its final expiry date?**  
**Response:** The delay in issuing a decision was a result of the time taken to conclude the associated Section 75 agreement. There has been no amendment to the expiration date other than by reason that all planning permissions which would have lapsed during the covid emergency period have been extended to September 2022.
- m) **What mitigation measures will be put in place to ensure no nests are damaged or destroyed during the development.**  
**Response:** A condition will be attached to protect nesting birds.
- n) **Has an Environmental Impact Assessment (EIA) been carried out as it was marked as not available on the application form.**  
**Response:** An EIA was not considered necessary for the current and previous planning applications for the site area. However, for the previous application

CL/15/0445 as the proposal related to a residential development which falls within the definition of 'major' development, as set out in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, the applicants undertook pre-application consultation prior to the submission of the planning application.

**o) Loss of privacy as there will be new homes directly over rear fence meaning there will now be overlooking in the rear garden and rear house windows.**

**Response:** Within high density urban areas there will always be some level of overlooking. The Council's Residential Guide recommends that there should be a minimum of 20 metres between directly facing habitable windows. The objector has not specified their address, however, in most cases proposed dwellings in the development adjoining existing houses are either bungalows or meet the requirements of the Residential Development Guide. A condition will be attached to ensure screen fencing is installed along mutual boundaries.

5.2 These letters are available for inspection on the planning portal.

## **6 Assessment and Conclusions**

6.1 The determining issues in the consideration of this application are its compliance with the adopted South Lanarkshire Local Development Plan 2 (SLLDP2).

6.2 Policy 1 Spatial Strategy aims to ensure that development proposals are of a compatible scale and that a generous supply of housing land is provided in appropriate locations. District heating schemes are encouraged. The policy lists all projects that are appropriate to the spatial strategy including a residential masterplan site at Upper Braidwood covering the planning application site. In terms of the requirements for this specific area, the SLLDP2 states that the Council will discourage piecemeal proposals and seek a comprehensive and co-ordinated approach to the servicing and development of access and drainage in the area, ensuring green infrastructure, suitable housing provision including affordable housing and upgrades to the electricity network as required. The previous Planning Permission CL/15/0445 for 140 dwellings was compliant with the masterplan requirements at the time of assessment and pre-dated the adoption of the current Local Plan and the promotion of district heating which in this instance would be unreasonable to insist upon, especially as the proposal only relates to house substitution and does not involve changes to the approved layout. There was no identified need to upgrade the electricity network and the preference of Housing was for a commuted sum rather than on site provision of affordable housing. Therefore, the proposal complies with Policy 1.

6.3 Under Policy 11 - Housing, the application site is identified as part of the housing land supply in the proposed SLLDP2 proposals map and is included within the settlement boundary of Upper Braidwood where Policy 3 – General Urban Areas and Settlements advises that residential developments on appropriate sites will generally be acceptable. The residential development of the site positively contributes towards the Council's requirement to maintain a five year effective supply of housing land provision. Furthermore, effective housing land within the settlement of Upper Braidwood meets the aims of Scottish Planning Policy by providing a sufficient and sustainable supply of housing within an existing residential area with access to services nearby. Policy 11 encourages a range of house sizes and types to give greater choice in meeting the needs of the local community whilst recognising demands of the wider housing market area. In that respect the proposal includes a reasonable range of styles and housing types. The proposal satisfactorily complies with the aims of Policies 3 – General Urban Areas and settlements and 11 - Housing of the adopted local development plan and therefore the principle of the proposed development is acceptable.

- 6.4 Policy 2 Climate Change seeks to minimise and mitigate against the effects of climate change by considering various criteria including: being sustainably located; reuse of vacant and derelict land; avoidance of flood risk areas; incorporating low and zero carbon generating technologies; opportunities for active travel routes and trips by public transport; electrical vehicle recharging infrastructure and where appropriate connection to heat networks. The site is located within the settlement boundary of Upper Braidwood where there is access to public bus routes and a number of services and facilities in the village which are within easy walking distance. The proposal will redevelop a significant area of brownfield land. The site is not at risk of flooding and a landscaping plan has identified trees to be retained along with additional tree planting. Conditions have been attached requiring the submission and approval of details for low carbon technology. Electrical vehicle recharging can be obtained from the electrical supply servicing the houses. In consideration, the proposals would not undermine the objectives of policy 2.
- 6.5 Policy 5 - Development Management and Place Making, together with the Development Management and Placemaking Supplementary Guidance supports residential developments where they do not have a significant adverse effect on the amenity of the area. In addition, any new development must relate satisfactorily to adjacent and surrounding development in terms of scale, massing, materials, and intensity of use. The character and amenity of the area must not be impaired by reason of traffic generation, parking, overshadowing, overlooking or visual intrusion. Policy DM1 - New Development Design reiterates these points and adds that modern innovative design can reflect local tradition through scale, massing, siting and colour rather than replicating existing building form. New houses should be designed in such a way as to incorporate high speed broadband connection.
- 6.6 The road layout, landscaping, amenity, drainage infrastructure etc and streetscene character remains largely unchanged. House replacements are similar to the footprint, curtilage, driveway, and parking provision as the originally approved dwellinghouses which are being substituted. The size, scale and design of the dwellings are in keeping with the established character of the area, will not adversely affect residential amenity and are largely compliant with guidance in the Residential and Rural Design Guides. The proposal will not have a significant impact upon landscape features, protected habitats or species. There are no infrastructure constraints. Roads and Transportation Services have not raised any traffic or public safety issues in their consultation response. Adequate parking, turning areas and access can be provided. A condition has been attached requiring approval of measures to facilitate the provision of full fibre broadband. In view of the above, it is considered that the proposal would relate satisfactorily to adjacent development, and the character and amenity of the residential area would not be impaired by reason of traffic generation, parking, visual intrusion or physical impact. The proposal is therefore satisfactory in terms of Policies 5 and DM1 of the adopted Local Plan.
- 6.7 The site forms part of the Green Network where Policy 13 – Green Network and Greenspace seeks to enhance and extend the green network as a means of contributing towards placemaking, enhancing health and supporting biodiversity. Landscaping represents a significant element of the proposed layout and is diffused throughout the site in both private and public space, around play areas, swales and along the roadsides and footpaths. The landscaping spread and distribution throughout the site accords with Policy 13.

- 6.8 Policy 14 – Natural and Historic Environment states that the Council will assess all development proposals in terms of their impact on the natural and historic environment, including landscape. The Council will seek to protect important natural and historic sites and features from adverse impacts resulting from development, including cumulative impacts. Development affecting protected species will not be permitted unless it can be justified in accordance with the relevant protected species legislation. Since bat roosts were identified in some of the existing buildings on site which are to be demolished this matter will be considered further under the terms of Policy NHE9 – Protected Species.
- 6.9 Policy NHE9 – Protected Species states all development that would impact on a European Protected Species will not be permitted unless it can be shown that:-
- ◆ the development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment
  - ◆ there is no satisfactory alternative
  - ◆ the development would not be detrimental to the maintenance of the population of the species at a favourable conservation status in its natural range
- 6.10 In response to the first test, the site has been identified for some considerable time as a suitable housing site for purposes of meeting housing demand in the medium to long term. The derelict nature of part of the site represents an eyesore and the re-use of previously developed land is supported by the Scottish Government. In respect of the second test there is no alternative other than leaving the site in its present condition. Three roosts, two non-breeding summer roosts and one transient roost, used by a small number of Soprano Pipistrelle bats, were identified in three separate buildings, earmarked for demolition, over the course of two bat surveys, one in June 2015 and the most recent during summer 2021. The applicant has applied to Scottish Nature for a bat licence to legally remove these roosts, during demolition – the application includes a bat protection plan outlining procedures for the removal of the roosts and mitigation measures including compensatory bat roost provision incorporated into the structure of some of the new build dwellings (either bat slates/tiles on new build roofs or bat tubes). The procedures adopted will not harm either individual bats or the local/regional status or national status of bats, therefore, the terms of the third test have been met. It is considered the proposal will not adversely affect bats and complies with the requirements of Policies 14 and NHE9.
- 6.11 This application has been resubmitted following deferral from the previous Planning Committee on 16 November 2021. Members at the November Committee had raised issues about safe routes to school, therefore, the application was deferred to enable time to consider these points and elaborate on findings in an updated report to be presented to the next available Committee. Ultimately, the assessment of safe routes to school falls outwith the planning remit and is primarily a matter between parents and the school authorities. Any primary school pupil that lives more than a mile from their catchment school by the shortest walking route is entitled to free school transport. School transport is provided on the same basis for any secondary pupil that lives more than two miles away from their catchment school. In the case of this residential development, it is considered that the distance to Braidwood Primary School, St. Athanasius' Primary School and Carluke High School are less than the threshold distance for the provision of free school transport, unless an assessment carried out by the Roads Safety Team, instigated by parents in liaison with the school authority, deems the walking route for a child accompanied by an adult to be unsafe. In response to an application for free mainstream school transport due to road safety, Education

Resources measure the distance from home to school using a Geographical Information System (GIS) in accordance to agreed procedures. In the case of St. Athanasius' Primary School this may result in a qualification on the grounds of distance, dependant on the individual home to school distance being ascertained from this process. The routes do involve having to cross the A73, (Lanark Road) which is a busy route, being the principal road corridor between Lanark and Carluke. The safety concerns in crossing this road were fully considered during the determination of the original Planning Permission CL/15/0445 and relevant conditions relating to road safety were applied and these conditions have been reapplied. Condition 08 'Signalised junction' (see list of conditions below) requires the installation of a signalised junction with pedestrian phase prior to the occupation of any dwellings. This will ensure vehicular access to the site from the A73 will be controlled by a 3-arm signal-controlled junction. The wording of this condition has been revised to provide more clarity by including specific reference to the pedestrian phase on the A73 at the proposed access point. Condition 12 stipulates that the new traffic signal installation to serve the development shall be undertaken by the Council's Traffic Signal Maintenance Contractor. Also, Condition 32 'Safety audit' has been added to ensure a full safety audit is undertaken prior to any commencement of work on site. It should also be noted that paragraph 4.1 above, states that an informative note will be attached to a Decision Notice if permission is granted, advising that a 30mph Speed Limit Order will be required as part of the development. With the implementation of these measures, children accompanied by adults as determined within the walking route to school assessment guidelines, will be able to cross the A73 safely, on the west side of which is an existing footway thereon providing pedestrian connection via the existing footway and footpath network to Carluke and Braidwood.

- 6.12 In view of all the above and taking into account the current local development plan context, the previous Planning Permission CL/15/0445 for 140 dwellings which remains live, and the supporting information submitted with the application, the proposed house substitutions, an amendment to CL/15/0445, are deemed to be acceptable. The proposals represent an appropriate form of residential development for the site, and it is therefore recommended that detailed planning consent be granted subject to the conditions listed.

## **7. Reasons for Decision**

- 7.1 The proposal will have no adverse impact on residential or visual amenity and raises no road safety concerns. The development complies with Policies 1, 2, 3, 5, 11, 13, 14, NHE9 and DM1 of the adopted South Lanarkshire Local Development Plan 2.

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

Date: 3 December 2021

## **Previous references**

- ◆ CL/15/0445
- ◆ Planning Committee - 16 November 2021

## **List of background papers**

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated 23 July 2021

►	Consultations	
	Roads Development Management Team	29.09.2021
	West of Scotland Archaeology Service	03.08.2021
►	Representations	Dated:
	Alfred Dickson, Windygates, 1 Albert Park, Braidwood, Carluke, South Lanarkshire, ML8 4RZ	13.08.2021
	Mrs Rosalind Yung, 6 Albert Park, Braidwood, ML8 4RZ	12.08.2021
	Emma Henderson, Received Via Email	16.09.2021

### **Contact for further information**

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

Ian Hamilton, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB  
 Phone: 01698 455174  
 Email: [ian.hamilton@southlanarkshire.gov.uk](mailto:ian.hamilton@southlanarkshire.gov.uk)

### **Conditions and reasons**

01. 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.

Reason: In the interests of amenity and in order to retain effective planning control.

02. That proposals for the maintenance of all areas of open space, landscaping and play/recreation areas within the development shall be submitted to the Council as Planning Authority and no work on the site shall be commenced until the permission of the Council has been granted for these proposals or such other proposals as may be acceptable.

Reason: In the interests of amenity.

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

04. That the landscaping scheme relating to the development hereby approved shall be carried out simultaneously with the development, or each phase thereof, and shall be completed and thereafter maintained and replaced where necessary to the satisfaction of the Council as Planning Authority.

Reason: In the interests of amenity.

05. That before any work commences on the site, a scheme for the provision of play area(s) and kick about pitch within the site(s) detailed on the approved plans shall be submitted to the Council as Planning Authority for written approval and shall include: (a) details of the type and location of play equipment, seating and litter bins to be situated within the play area(s); (b) details of the surface treatment of the play area, including the location and type of safety surface to be installed; (c) details of the fences to be erected around the play area(s); and (d) details of the phasing of these works.

Reason: To ensure the provision of adequate play facilities within the site and in order to retain effective planning control.



06. That before each phase approved under the terms of condition 14 below is completed, the entire access road and footpath network serving the approved phase shall be laid out and constructed in accordance with the specification of the Council as Roads and Planning Authority.

Reason: To ensure satisfactory vehicular and pedestrian access facilities to the dwellings.

07. 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 shall include signed appendices as required. No dwellinghouse shall be occupied until the surface drainage works have been completed in accordance with the details submitted to and approved by the Council as Planning Authority unless otherwise agreed in writing by the Council.

Reason: 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.

08. Prior to the commencement of any development on site, a detailed scheme, showing the design and specification for the installation of the signalised junction with MOVA control measures, including pedestrian phase, on the A73, at the proposed access, shall be submitted to and approved in writing by the Council as Planning and Roads Authority. Thereafter the approved scheme shall be implemented to the satisfaction of the Council and be in operation before any house within the development is occupied.

Reason: In the interest of public safety.

09. Prior to occupation of any part of the development hereby approved the existing bus stops adjacent to the A73 Lanark Road shall be relocated to a position to be agreed with the Council as Roads and Planning Authority and Strathclyde Partnership for Transport and enhanced by the provision of access kerbs of a type to be approved by the Council as Planning and Roads Authority following consultation with Strathclyde Partnership for Transport.

Reason: To be consistent with the requirements of SPP and Planning Advice Note 75.

10. Prior to the commencement of any part of the development details of all pedestrian and cycle links to the existing networks shall be submitted to and approved by the Council as Planning Authority. Thereafter the approved scheme shall be implemented to the satisfaction of the Council and be in operation before any house within the development is occupied or other timescale agreed in writing by the Council.

Reason: To be consistent with the requirements of SPP and Planning Advice Note 75.

11. That prior to works commencing on site, further junction analysis at the signalised junction at A73 Stewart Street and Glamis Avenue shall be submitted by the applicant for the approval of the Council as Planning and Roads Authority.

Reason: In the interests of efficient traffic movement.

12. That the new traffic signal installation to serve the development or alterations to the existing traffic signal system on the A73 shall be undertaken by the Council's Traffic Signal Maintenance Contractor to the satisfaction of the Council as Planning and Roads Authority.

Reason: In the interests of road safety and in order to retain effective planning control.

13. That before the occupation of any houses, a 2 metre wide footway shall be constructed along the A73 frontage of the site to the specification of the Council as Roads and Planning Authority.

Reason: In the interest of public safety.

14. No development shall take place within the site until a detailed Phasing Scheme (the Scheme) has been submitted by the developer to, and approved in writing by, the Council as Planning Authority. The Scheme will include, amongst other items, the phasing of the construction of roads and SUDS features, landscaping, play areas and kick about pitch and will specifically include a timetable for implementation. Thereafter, the development will be carried out strictly in accordance with the terms of the Scheme as approved, unless the Planning Authority gives written consent to any variation or variations of the Scheme (including the timetable for implementation), in which case the development will be carried out strictly in accordance with the Scheme as varied from time to time.

Reason: To ensure that the development proceeds in an orderly manner.

15. That the maximum gradients of the road system within the development shall be no greater than 8%.

Reason: In the interest of public safety.

16. That internal visibility splays of 2.4 metres by 25 metres measured from the road channel shall be provided and maintained in both directions at all junctions and everything exceeding 1.05 metres in height above the road channel level shall be removed from the sight line areas and thereafter nothing exceeding 1.05 metres in height shall be planted, placed, or erected within these sight lines.

Reason: In the interest of road safety.

17. That none of the driveways shall have a gradient in excess of 1:10.

Reason: In the interest of public safety.

18. 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.

Reason: These details have not been submitted or approved.

19. 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 18 above, shall be erected and thereafter maintained to the satisfaction of the Council.

Reason: In order to retain effective planning control.

20. That no dwellinghouse shall be occupied until the developer provides a written agreement from Scottish Water that the site can be served by a sewerage and water scheme constructed to the specification and satisfaction of Scottish Water as the Water and Sewerage Authority.

Reason: To ensure that the development is served by an appropriate effluent disposal system and water supply.

21. That no development shall take place within the development site as outlined in red on the approved plans until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

Reason: In order to safeguard any archaeological items of interest or finds.

22. That the development shall be carried out in accordance with the measures and method statement set down in the Appendix 2 'Bat Protection Plan' of the Bat Roost Surveys (Acorna Ecology Ltd, May - July 2021) including further bat surveys and the installation of bat boxes on the completion of the development.

Reason: In the interests of wildlife.

23. That before each phase of the development hereby approved is completed or brought into use, or as otherwise agreed in writing with the Council as Planning Authority, the new vehicular access serving that part of the development so far as it lies within the boundaries of the road abutting the site, shall be constructed in accordance with the specification of the Council as Roads and Planning Authority.

Reason: In the interest of public safety.

24. That before each phase of the development hereby approved is completed or brought into use, the entire access road and footpath network serving that part of the development shall be laid out and constructed in accordance with the specification of the Council as Roads and Planning Authority.

Reason: In the interest of public safety.

25. That before any work starts on site details of an acoustic barrier shall be submitted to the Council as Planning Authority for its consideration and written approval. The proposals shall ensure that the external day time noise level between 07.00 and 23.00 shall not exceed an LAeq.16hrs of 50dB when measured free field within the curtilage of any external amenity area. The external night time noise level between 23.00 and 7.00 shall not exceed an LAeq.8hrs of 40dB when measured free field within the curtilage of any external amenity area.

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

26. That before any of the dwellinghouses are occupied, a 1.8 metre high screen fence shall be erected along the boundaries marked yellow on the approved plan subject to minimising impact upon existing boundary trees.

Reason: To protect the privacy of neighbouring dwellings.

27. Prior to the commencement of the development hereby approved (including any demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Council as Planning Authority. Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) A full specification for the installation of boundary treatment works.
- e) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) A specification for scaffolding and ground protection within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- j) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- k) Boundary treatments within the RPA
- l) Methodology and detailed assessment of root pruning
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist
- n) Reporting of inspection and supervision
- o) Methods to improve the rooting environment for retained and proposed trees and landscaping
- p) Veteran and ancient tree protection and management.

The development shall thereafter be implemented in strict accordance with the approved details.

Reason: To ensure that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.

28. Prior to the commencement of development on site, an energy statement covering the new build element of the approved development which demonstrates that on-site zero and low carbon energy technologies contribute at least an extra 10% 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 10% 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.

Reason: To secure a reduction in carbon dioxide emissions.

29. 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.

Reason: To secure the timeous implementation of on-site zero and low carbon energy technologies.

30. Prior to commencement of the development hereby approved, details of measures to facilitate the provision of full fibre broadband to serve the development, including details of appropriate digital infrastructure and a timescale for implementation, shall be submitted to and approved in writing by the Council as Planning Authority, unless otherwise agreed in writing with the applicant. The approved measures shall thereafter be carried out in accordance with the agreed implementation timescale.

Reason: To ensure the provision of digital infrastructure to serve the development.

31. No ground preparation works shall take place during the bird nesting season (March - July). If any such works are proposed during the bird breeding season the area proposed for works and a 50m buffer shall be checked by an ecologist to determine if any breeding birds with active nests or dependent fledglings are present. If any are present, then works must not take place until the breeding cycle is complete for those individual birds.

Reason: In the interests of nesting birds.

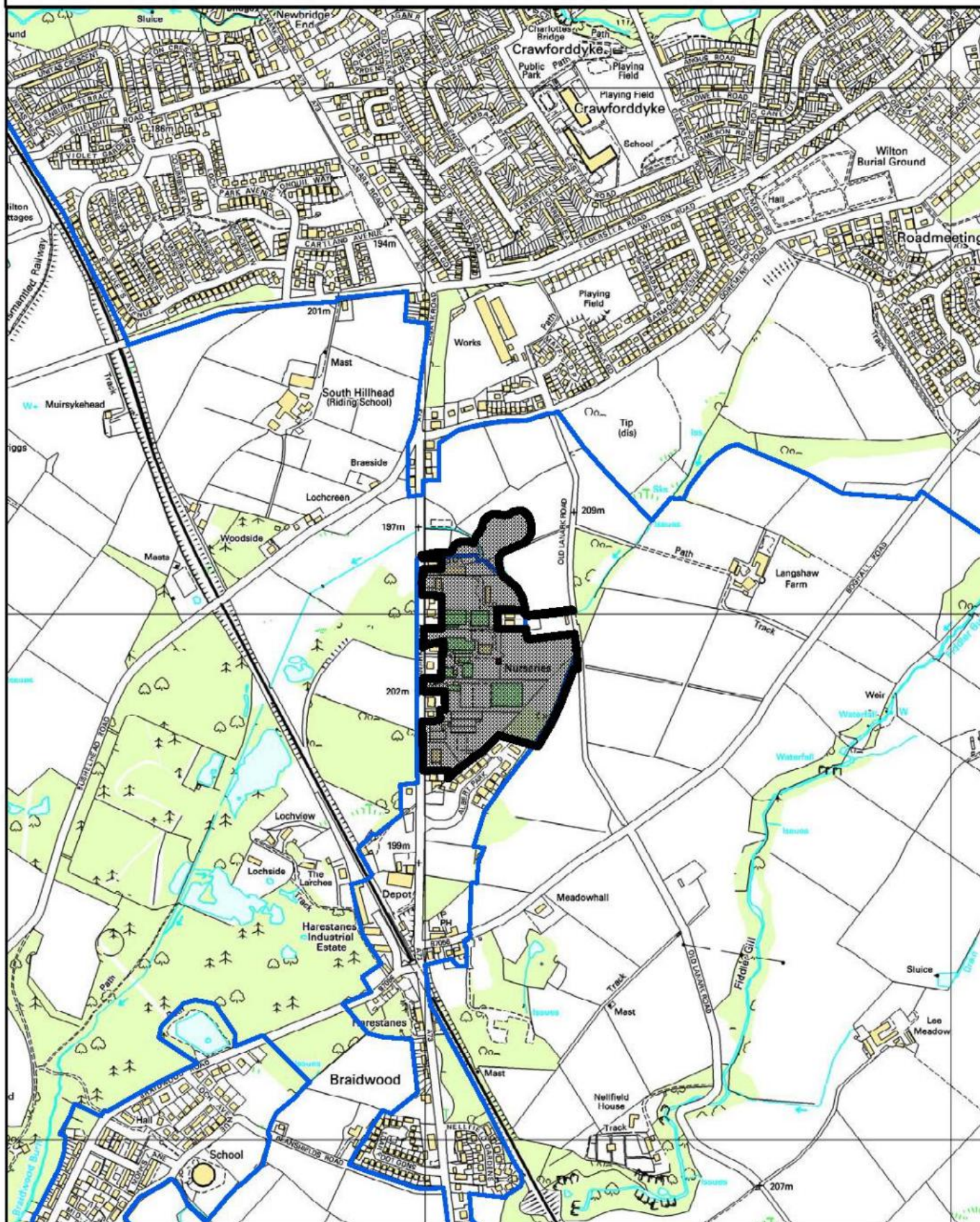
32. That prior to the works commencing on site, a full Safety Audit, in accordance with the Institute of Highways and Transportation Guidelines, shall be submitted to the Council as Planning and Roads Authority for approval for all infrastructure to be constructed and adopted, or altered, on the public road.

Reason: In the interests of public and traffic safety.



P/21/1183

Land 125M East of 15 Lanark Road, Braidwood



© Crown copyright and database rights 2019 OS 100020730. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



Scale:  
1:10,000  
Date:  
26/10/2021



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Economic Development

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>14 December 2021</b>
Report by:	<b>Executive Director (Enterprise Resources)</b>

<b>Subject:</b>	<b>Planning Enforcement Charter</b>
-----------------	-------------------------------------

## 1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ seek Committee approval to revise the Council's Planning Enforcement Charter

## 2. Recommendation(s)

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

- (1) that the Council's amended Planning Enforcement Charter, attached as Appendix 1 to the report, be approved subject to the Head of Planning and Economic Development being authorised to modify the document to take account of drafting, presentational and technical matters, prior to publication.

## 3. Background

3.1. Section 158A of the Town and Country Planning (Scotland) Act 1997 requires a planning authority to prepare an enforcement charter. It should contain the Council's policies for taking enforcement action; how members of the public can report breaches of planning control; and information on how the enforcement system works. The charter must be kept under review and be updated and re-published at least every 2 years.

3.2. Scottish Government policy on planning enforcement is set out in Circular 10/2009. As a general principle it states that Planning authorities have discretion to take enforcement action against any breach of planning control if they consider such action to be expedient, having regard to the provisions of the development plan and any other material considerations. Considering whether any particular formal enforcement action is appropriate should be guided by the following considerations:-

- ◆ Enforcement action should only be necessary if it is in the public interest to do so.
- ◆ In considering if enforcement action is appropriate, consideration should be given as to whether the breach of control would affect unacceptably either public amenity or the use of land and buildings meriting protection in the public interest.
- ◆ Enforcement action should always be commensurate with the breach of planning control to which it relates. For example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of planning control which has no material adverse planning implications.



- 3.3. Many enquiries the Council receives relate to unauthorised development by small businesses or the self-employed and development carried out by householders. In the case of the former the circular states that, although some breaches of control are clearly deliberate, in many cases the owner or operator of a business has carried out unlawful development in good faith believing that no planning permission is needed. The initial aim in this type of case should be to explore whether the business can be allowed to continue on the site at its current level of activity, or perhaps less intensively. The advice is to suggest ways in which the planning issues may be overcome. This may result in the grant of conditional planning permission, enabling the owner or operator to continue in business at the site without harm to local amenity. Before taking formal enforcement action informal discussion should take place to resolve the problem by minimising harm to local amenity caused by the business activity. If this cannot be achieved the Planning and Economic Development service will seek the possible relocation of the business to another site.
- 3.4. In the case of unauthorised householder development, planning authorities are asked to consider that the householder may have been unaware of the need for planning permission, or that the development qualified as permitted development. Enforcement action should not normally be taken in order to remedy a slight variation in excess of what would have been permitted. However, if the breach is clearly unacceptable, then formal enforcement action should be taken.
- 3.5 As a general rule, while it may be possible to resolve a breach of planning control through informal negotiations, particularly where the breach is relatively minor and/or unintentional, where such an approach is initially unsuccessful, further negotiations should not be allowed to delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or for it to stop.

#### **4. Review of the Planning Enforcement Charter**

- 4.1. The following table shows that the number of enforcement cases investigated by the service has increased significantly in the period since 1 April 2020 compared to previous years.

<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>From 1 April 2021</b>
194	187	188	280	270

A key part of the review of the current charter was to consider whether the current process for dealing with the increasing scale of enforcement cases remains appropriate in view of the current workload. This has resulted in the development of a four stage process and this is described as follows.

##### **4.2. Stage 1 - Receipt of enquiry**

This initial stage involves checking whether the enquiry relates to a planning matter.



The list of breaches the Planning Enforcement Team will not investigate include:-

- ◆ Land ownership disputes
- ◆ Enforcement of conditions on title deeds
- ◆ General maintenance of land - this includes maintenance of open space within housing developments
- ◆ Clearing land of trees and shrubs (unless protected or in Conservation Area)
- ◆ Untidy land/Fly tipping and abandoned vehicles
- ◆ Health and safety matters/site working practices
- ◆ Construction working hours
- ◆ Content of an advertisement
- ◆ Parking on Public Road/blocking driveways
- ◆ Unsafe structure/buildings
- ◆ Light/noise/odour complaints (unless covered by a planning condition)
- ◆ Any development on Council owned land including works to Council houses
- ◆ A prediction that something might happen

Where a complaint falls under the remit of another Council Service, it will be forwarded to the relevant Service to investigate and respond direct.

#### 4.3. Stage 2 Investigation

Once it is confirmed that the enquiry is a planning matter, the main purpose at this stage is to identify if a breach has actually occurred and this normally involves a site visit. The timescales for this depend on the priority the case is given; the following guidelines apply:-

##### **High Priority Cases** (Site visit made within 5 working days of the original enquiry)

These cases are time critical and have a severe impact on public/road safety and/or public amenity and are causing significant harm

- ◆ Causing immediate harm to amenity of the environment for example landfilling or large scale engineering works
- ◆ Active works to a listed building including demolition
- ◆ Felling of protected trees
- ◆ Works likely to adversely affect a designated natural or historic site of international or national importance
- ◆ Works likely to irreparably adversely affect a conservation area including demolition
- ◆ Works causing an immediate danger to public/road safety

##### **Medium Cases** (Site visit made within 4 weeks of the original enquiry)

Cases that have a significant impact on public amenity and/or public safety and cause a degree of harm

- ◆ Ongoing building works or changes of use that are not significantly affecting public amenity or safety
- ◆ Works unlikely to give rise to severe or lasting harm
- ◆ Minor unauthorised works affecting a listed building or conservation area
- ◆ Departure from approved plans or a breach of condition that would cause demonstrable harm to the amenity of an area or public safety

- ◆ Works at a residential property that affect the amenity of the immediate area including the running of businesses or operation as a short term let.

#### **Low Priority Cases** (Site visit made within 8 weeks of the original enquiry)

Cases that are generally technical breaches which have low/no impact and cause localised harm

- ◆ All householder development
- ◆ Advertisements with low road safety impact
- ◆ Minor alterations to business premises
- ◆ Unauthorised development or breaches of condition that have limited or no impact on public amenity

When, following investigation, Planning Enforcement find a planning breach has not occurred or that it is immune from action, the case is closed and customers are informed with an explanation of the decision.

#### 4.4. Stage 3 Triage Assessment

Where a breach of planning control is established, Stage 3 focuses on deciding whether to take formal enforcement action and, if so, what form. Planning enforcement is a discretionary function and formal action will only be taken where it is in the public interest to do so. A triage assessment is carried out to determine the most appropriate course of action whereby the breach will be categorised in terms of the nature and severity of the breach and the severity of impacts arising, including the effect associated with not halting the breach. This involves assessment against planning policies and other material planning considerations, taking into account whether the breach causes 'harm' to public amenity, land or buildings meriting protection in the public interest. Breaches will be categorised as follows:-

##### a) Breach Minor or Acceptable in Planning terms

These are generally minor breaches in scale and impact and accord with planning policies. It will generally be the case that it will not be in the public interest to take formal action and the case will be closed.

##### b) Breach could be made Acceptable with modifications/planning conditions

These are breaches that could be made acceptable or regularised with some minor amendments. This may result in the submission of a retrospective planning application.

##### c) Breach Unacceptable

These are cases where the breach is more significant in scale and unlikely to be capable of being made acceptable in planning terms, or at least without significant amendments, or requires urgent action to prevent further harm and impact on public amenity, public safety or the environment.

#### 4.5. Stage 4 Outcomes

Once the breach is categorised the action to be pursued can be determined ranging from taking no action, seeking a retrospective application to regularise or make development acceptable, to the taking of enforcement action to halt or put right a breach.

In many cases no further action will be taken if the breach falls into category A above and the case will be closed.

In situations where action is deemed necessary there are three main approaches which may be taken.

a) Negotiate a solution

This involves trying to sort out the situation by negotiating with the person who is responsible for breaking planning control, rather than immediately taking enforcement action against them. This will normally mean the person responsible being asked to stop the activity and get them to carry out work to put right any harm that it has caused; or modify it so that the development does not require planning permission. The person responsible will be given a specific amount of time to meet either of these requirements. The length of time will depend on how serious the problem is and any harm it is causing.

b) Make a retrospective application

In some cases, it will be appropriate to ask the person responsible to submit a retrospective planning application. Until a decision is made on the retrospective application, formal action will not be taken. A retrospective application will only be encouraged where the situation has no negative effects or if the operations or work could be made acceptable by placing conditions on the planning permission. This does not however prevent the developer submitting an application where they are advised it is unlikely it will be granted.

Retrospective planning applications are dealt with like any others including the normal neighbour notification and publicity being carried out. A decision on the application will take into account the Local Development Plan, responses from consultees and the impact on the area and public safety. The application cannot be refused simply because it is retrospective. If planning permission is granted or if the unauthorised activity stops and any harmful effects are put right, enforcement action will not be taken.

c) Take formal enforcement action

If the problem continues beyond the timescale given to put right any harmful effects or to submit a planning application, formal enforcement action will be taken. We may also take action where a retrospective application is unacceptable on its planning merits and cannot be made acceptable by placing conditions on it. Taking action has to be in the public interest not because someone does not have planning permission or does not make a retrospective planning application. Only a relatively small number of cases result in formal enforcement action.

4.6. It is only when someone who has been served with a notice does not comply with its requirements that an offence under the Planning Act is committed. If this is the case the options available to the Council include:-

- ◆ referring the case to the Procurator Fiscal for possible prosecution
- ◆ serving a fixed-penalty notice
- ◆ carrying out work to put the problem right and charging the person for the costs involved

- ◆ getting a court order to stop or prevent someone from breaking planning controls
- ◆ seeking prosecution involves reporting the case to the Procurator Fiscal. If the Fiscal accepts a case, the matter is referred to the Sheriff Court. If the case is not accepted, or the case is dismissed by the Court, the Council will not continue with enforcement action. It is for this reason that it is more appropriate to work with the person who has committed the breach to try and remedy it through negotiation. The Council can serve a Fixed Penalty Notice if the notice is not complied with. The responsible person has the option to pay, within 30 days, the fixed penalty, which would indemnify them from prosecution. This is an option that will be explored further. Carrying out the work to remedy the breach is a last resort due to the costs involved and the problems of recovering the costs from the person responsible.

## **5. Next Steps and Timescale**

- 5.1. If approved, it is intended that the revised Charter would be published on the Council's website and form the basis for guiding the Service's approach to the application of its enforcement powers. In addition, in accordance with legislation two copies will be sent to Scottish Ministers and a copy placed in each public library once they are open again to the public.

## **6. Employee Implications**

- 6.1. There are no employee implications.

## **7. Financial Implications**

- 7.1. There are no budgetary implications at this stage. Any publishing costs can be met from existing revenue budgets.

## **8. Climate Change, Sustainability and Environmental Implications**

- 8.1. There are no climate change, sustainability or environmental implications in terms of the information contained in this report.

## **9. Other Implications**

- 9.1. There would be a reputational risk if the Council did not provide an updated Planning Enforcement Charter.

## **10. Equality Impact Assessment and Consultation Arrangements**

- 10.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and therefore, no impact assessment is required. There is also no requirement to undertake any consultation in terms of the information contained in this report.

**Michael McGlynn**

**Executive Director (Community and Enterprise Resources)**

2 December 2021

## **Link(s) to Council Values/Ambitions/Objectives**

- ◆ Accountable, effective, efficient and transparent
- ◆ Ambitious, self aware and improving
- ◆ Improve the quality of life of everyone in South Lanarkshire

**Previous References**

- ◆ Report to Planning Committee 26 February 2019 - Planning Enforcement Charter.

**List of Background Papers**

- ◆ South Lanarkshire Planning Enforcement Charter.

**Contact for Further Information**

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

Tony Finn Planning and Building Standards Manager, Montrose House, Hamilton

Ext: 4672 (Tel: 01698 454672)

E-mail: [tony.finn@southlanarkshire.gov.uk](mailto:tony.finn@southlanarkshire.gov.uk)

## Planning and Economic Development Services Planning Enforcement Charter

A guide to enforcing planning control

### Contents

- 1 Introduction
- 2 Planning Enforcement
- 3 Reporting a possible breach of planning control
- 4 Enforcement Policy
- 5 The Enforcement Process
- 6 Not keeping to statutory notices
- 7 Appeals against notices
- 8 Enforcement and advertising
- 9 Protected trees
- 10 Enforcement powers
- 11 Frequently Asked Questions

## 1 Introduction

Planning permission is needed for most types of development, including new buildings and extensions and the change of use of land or buildings. However, some minor work (known as permitted development) can be carried out without applying for permission.

Sometimes developers or householders undertake work without planning permission or fail to keep to the permission they have been given. When such works are undertaken, this is referred to as a **breach of planning control**. This is not itself a criminal offence. This only occurs when a notice served by the Council has not been complied with in the timescale required.

The purpose of planning enforcement is to resolve the problem rather than to punish the mistake. In addition, any action taken has to be proportionate to the scale of the breach.

The Council has legal powers to investigate breaches of planning control. It can take formal action where a satisfactory outcome cannot be achieved by negotiation. However, enforcement is a discretionary power. That means that, even where there is a breach of planning control, the Council has to consider the breach against the planning policies of the Local Development Plan and whether it is in the public interest to take enforcement action.

The Council has statutory duty to prepare an Enforcement Charter and to review it at least every 2 years. It explains how the enforcement process works (including matters we cannot investigate); what happens at each stage of what can be a lengthy process; and the service standards we have set. It aims to make sure that our procedures are fair and reasonable and that we keep everyone involved informed when enforcement issues arise. The Charter also explains the current powers available to the Council.

The Planning Enforcement pages on the website includes useful information on planning enforcement to compliment the Planning Enforcement Charter. The website explains how to report a breach of planning control to the Council, how we process complaints relating to breaches of planning control, and information on enforcement powers. The Enforcement Register can also be found there.

### **SERVICE STANDARD**

We will carry out our investigations in accordance with the following key values

**Independence:** We will make our decisions based on a fair, impartial and objective assessment of what is in the public interest and the level of harm caused by the breach

**Integrity:** We will be open in our contact with the customers while preserving their confidentiality

**Sensitivity:** We recognise the needs of the customers involved in the enforcement process

**Professionalism:** We will investigate and record cases thoroughly and accurately

## **2 Planning Enforcement**

### **What we Investigate**

The Planning Enforcement Team will investigate the following enquires about alleged breaches of planning control

- Work being carried out without planning permission or listed building consent
- Unauthorised change of use of land of buildings
- Not following conditions attached to a planning permission already granted
- Not complying with approved drawings and plans on a planning permission
- Works to trees that are protected by a Tree Preservation Order or within a Conservation Area.
- Unauthorised advertisements

There will be cases where the work that has been carried out is permitted development because of its size and position and does not require planning permission in the first place. It is also not always the case that works to a listed building need consent if that work does not affect its character. In addition, there are many situations where running a business from a house does not require permission. You can get further guidance on these matters by contacting the Planning Service.

### **Time Limits for Enforcement Action**

Where breaches are identified we have statutory time limits in which we can pursue enforcement action. This means that where a breach has been in place for a number of years the Council is prevented from taking action. It is deemed to be lawful. The relevant time limits are:

A four year limit – this applies to “operational development” (the carrying out of building, engineering, mining or other operations in, on, over or under land) and change of use to a single dwellinghouse. After four years following the breach of planning control, no enforcement action can be taken.

A ten year limit – this applies to all other development including a change of use (other than to a single dwellinghouse) and breaches of condition. After ten years, no enforcement action can be taken.

### **What we will not investigate**

There are a number of matters that we will not investigate because they are legal or civil matters or can be dealt with by other services within the Council (in which case we will forward the enquiry to the relevant service to investigate).

- Land ownership disputes
- Enforcement of conditions on title deeds
- General maintenance of land - this includes maintenance of open space within housing developments
- Clearing land of trees and shrubs (unless protected or in Conservation Area)
- Untidy land/Fly tipping and abandoned vehicles
- Health and safety matters/site working practices
- Construction working hours
- Content of an advertisement
- Parking on Public Road/blocking driveways
- Unsafe structure/buildings
- Light/noise/odour complaints (unless covered by a planning condition)
- Any development on Council owned land including works to Council houses
- A prediction that something might happen



### Anonymous Complaints

Anonymous complaints about suspected breaches of planning control will generally not be investigated. Only in exceptional circumstances will anonymous complaints be investigated where the breach would lead to serious harm to public amenity or public safety,

### **SERVICE STANDARD**

By publishing our standards and targets, we aim to improve our enforcement service so we respond to the needs of our customers. We will monitor this charter to make sure that we are meeting standards and targets.

### **3 Reporting a Breach of planning control**

Members of the public have a vital role in reporting situations where control has been broken. If you are concerned that someone is carrying out work without permission or not keeping to planning permission they have been given or any conditions attached to it, please contact the Planning Enforcement team. You can see decision notices for planning applications online at [www.southlanarkshire.gov.uk](http://www.southlanarkshire.gov.uk).

You should report a breach using an online form.

[https://www.southlanarkshire.gov.uk/info/200145/planning\\_and\\_building\\_standards/321/planning\\_enforcement/2](https://www.southlanarkshire.gov.uk/info/200145/planning_and_building_standards/321/planning_enforcement/2)

The following information is important and helpful to us when you report a suspected case where planning control has been broken.

- The address or location of the property or land involved where the suspected breach has taken place.
- Full details of the suspected problem (for example, details of the building work or activities being carried out, or the particular condition on a planning permission which you think may not be being kept to).
- Dates and times when the activity is carried out or when the building work began, if this applies.
- Details of any problems caused by breaking the planning controls.
- Details of your name, phone number, address and e-mail address, if you have one are helpful if you want to know the outcome of an investigation into your enquiry.
- Any photographs you have of the alleged breach

#### **Confidentiality**

We will do our best to honour requests for confidentiality and treat personal data in accordance with data protection legislation. We are however subject to information requests and we may have to release personal information in some limited circumstances. Requests for total confidentiality may also limit our ability to take formal action and we cannot guarantee this if the case leads to court proceedings.

#### **SERVICE STANDARD**

Valid enquiries will be registered and acknowledged within 10 working days of receipt. The acknowledgement will include a reference number and details of the case officer

## 4 Enforcement Policy

Our policy is required to comply with national policy which is set out in Circular 10/2009 – Planning Enforcement. The Council is required to consider whether the breach of control would affect unacceptably either public amenity or the use of land and buildings meriting protection in the public interest. Enforcement action should always be commensurate with the breach of planning control to which it relates.

When we find that planning control has been broken, we have to decide what action, if any, is needed. The effect of unauthorised development has on an area and the local environment varies and when considering whether to take formal enforcement action, our main concern is whether the unauthorised development or activity has a harmful effect on an area (for example, through noise, visual impact (what it looks like), smell, dust, fumes or traffic safety).

### General enforcement policy

The primary aim of planning enforcement is to protect the environment and the quality of life in the public interest. The Council will always exercise its planning enforcement powers rigorously when it is appropriate to do so.

There will be occasions where formal action is necessary but in general, we will seek to achieve compliance through negotiation, co-operation, and those carrying out the breach putting it right themselves without recourse to formal action. There will be occasions when immediate formal action is necessary to halt breaches that are causing significant harm, or may cause lasting harm if not stopped.

When considering enforcement action, the Council will have regard to the following principles and be guided by the approach set out in Stage 4 of the Enforcement Process.

#### a) Expediency

We will only pursue enforcement action when it is appropriate to do so. In deciding whether to pursue formal action the following factors are taken into account

- whether the breach is causing harm that would unacceptably affect amenity, the environment or Public Safety;
- whether the existing use of land and/or buildings merits protection in the public interest;
- if planning permission would likely be granted for the unauthorised development i.e. the event of an application being submitted whether the development complies with planning policies.

#### b) Proportionality

Taking formal action must always be proportionate to the seriousness of the harm being caused. It will not be taken solely to regularise development which is otherwise acceptable on its planning merits but for which planning permission has not been sought. Carrying out works without planning permission or contrary to a planning condition is not a criminal offence (subject to a few exceptions – works to listed buildings, trees protected by a Tree Preservation Order and failure to comply with an Enforcement Notice).

#### c) Negotiation

Where a breach of planning control has occurred, we will normally try to negotiate a solution to regularise the breach. In all but the most serious cases, we will initially seek to persuade those persons responsible for a breach to voluntarily remedy the harmful effects, rather than pursue formal enforcement action, providing that an appropriate solution can be achieved.

Negotiation may also include inviting the persons responsible for the breach to submit a retrospective planning application to try to regularise the breach.

Negotiation aims to achieve:

- Cease an unauthorised use or activity and reduce it so it becomes acceptable

- Remove or modify an unauthorised operational development
- Apply for planning permission, a variation of permission, or variation of condition

d) Openness

Those making a complaint and persons subject of a complaint will be kept informed about progress of an investigation. When formal action is necessary, we will explain why such action has been taken. Equally, if it is decided we will not take enforcement action, all parties will be informed of the decision and reasons for it. Other than the most serious of cases, we will provide an opportunity for discussion and negotiation before formal enforcement action is taken. We will give clear explanation of the need for immediate action.

We aim to assist the public whenever possible. However, officers will not tolerate abusive language, persons who are unreasonably demanding on staff resources, or show unacceptable behaviour towards staff.

Prioritisation of cases

In order to deal effectively with a large number of complaints about breaches of planning control, we will prioritise cases based on the seriousness of the breach, and the likelihood of serious harm to amenity or public safety.

**High Priority Cases**\_(Site visit made within 5 working days of the original enquiry)

These cases are time critical and have a severe impact on public/road safety and/or public amenity and are causing significant harm

- Causing immediate harm to amenity of the environment for example landfilling or large scale engineering works
- Active works to a listed building including demolition
- Felling of protected trees
- Works likely to adversely affect a designated natural or historic site of international or national importance
- Works likely to irreparably adversely affect a conservation area including demolition
- Works causing an immediate danger to public/road safety.

**Medium Cases**\_(Site visit made within 4 weeks of the original enquiry)

Cases that have a significant impact on public amenity and/or public safety and cause a degree of harm

- Ongoing building works or changes of use that are not significantly affecting public amenity or safety
- Works unlikely to give rise to severe or lasting harm
- Minor unauthorised works affecting a listed building or conservation area
- Departure from approved plans or a breach of condition that would cause demonstrable harm to the amenity of an area or public safety
- Works at a residential property that affect the amenity of the immediate area including the running of businesses or operation as a short term let.

**Low Priority Cases**\_(Site visit made within 8 weeks of the original enquiry)

Cases that are generally technical breaches which have low/no impact and cause localised harm

- All householder development
- Advertisements with low road safety impact
- Minor alterations to business premises
- Unauthorised development or breaches of condition that have limited or no impact on public amenity

### Deciding whether to take enforcement action

We will take enforcement action against any unauthorised development that unacceptably harms public amenity, public safety or the existing use of land and buildings which need protecting in the public interest. In considering whether to take enforcement action, we will assess the situation against:

- the local development plan policies.
- the effect on residential amenity (for example whether a development would result in an unacceptable loss of privacy, overlooking or overshadowing or affect the overall character of an area and its enjoyment by residents or visitors);
- the effect on road safety;
- the scale of the problem;
- how sensitive the area is to the harmful effects of noise, visual effect, smell, dust, fumes; and
- how much harm will be done to the environment – landscape character, listed buildings, archaeology and habitats.

We will not take action against trivial or technical breaches that cause no harm to amenity or safety. We will try to persuade an owner or occupier of land to voluntarily put right any harmful effects of unauthorised development. However, negotiations will not delay formal enforcement action that we think is necessary to stop the activity or make the development more acceptable.

## **5 The Enforcement Process**

### **Stage 1 Receipt of enquiry**

When enforcement complaints are received, they are initially screened to check to make sure that all the details that we need to carry out an investigation have been provided (See section 3 above) and that they relate to a planning enforcement matter. The list of Breaches outlined in section 2 set out what the Planning Enforcement Team will investigate.

Where a complaint does not relate to a planning enforcement matter, customers will be informed by email or letter, with an explanation given why the complaint is not being investigated. Where a complaint falls under the remit of another Council Service, the Enforcement Team will forward it to the relevant Service to investigate and respond direct.

### **Stage 2 Investigation**

Once it is confirmed that the enquiry is a planning matter we will send an acknowledgement to the person who made the enquiry which will include details of the case reference number, details of the officer dealing with the enquiry and other contact details. We will try to keep you informed about significant stages in the progress of a case.

The main purpose at this stage is to identify if a breach has occurred. This normally involves a site visit within the following timescales described in section 4.

After carrying out the site visit we will gather as much information as possible to establish the facts about the case and speaking to the owners or occupiers of the land. Sometimes this may involve serving a Planning Contravention Notice requesting specific information when an owner is unwilling to provide information or there is a lack of evidence to clarify matters.

When, following investigation, Planning Enforcement find a planning breach has not occurred or that it is immune from action, the case is closed and customers are informed with an explanation of the decision.

### **Stage 3 Triage Assessment**

Where a breach is established, Stage 3 focuses on deciding whether to take action and, if so, what form. Planning enforcement is a discretionary function and formal action will only be taken where it is in the public interest to take action. A triage assessment is carried out to determine the most appropriate course of action whereby it will be categorised in terms of the nature and severity of the breach and the severity of impacts arising, including the impacts associated with not halting the breach. This will determine if the breach warrants taking action and any such action is proportionate to the breach. This involves assessing the scale and impact of the breach against planning policies and other material planning considerations, taking into account whether the breach causes 'harm' to public amenity, land or buildings meriting protection in the public interest. Breaches are categorised as follows;

**A) Breach Minor or Acceptable in Planning terms**

These are generally minor breaches in scale and impact and accord with planning policies. It will generally be the case that it will not be in the public interest to take formal action and the case will be closed.

**b) Breach could be made Acceptable with modifications/planning conditions**

These are breaches that could be made acceptable or regularised with some minor amendments.

**c) Breach Unacceptable**

These are cases where the breach is more significant in scale and unlikely to be capable of being made acceptable in planning terms, or at least without significant amendments, or requires urgent action to prevent further harm and impact on public amenity, public safety or the environment.

## Stage 4 Outcomes

Once the breach is categorised we consider the action to be pursued. There will be a number of Actions ranging from taking no action, seeking a retrospective application to regularise or make development acceptable, to the taking of enforcement action to halt or put right a breach. The period for resolving cases will vary depending on the action to be pursued, the circumstances of the case, and the co-operation shown.

If we do find that a breach has occurred, there are three main courses of action which we may take.

d) Negotiate a solution

We will usually try to sort out the situation by negotiating with the person who is responsible for breaking planning control, rather than immediately taking enforcement action against them. In many cases, we do this through discussion and negotiation. We will take this approach when we consider that it is the most reasonable way of dealing with a problem. This will normally mean the person responsible being asked to stop the activity and get them to carry out work to put right any harm that it has caused; or modify it so that the development does not require planning permission. We will give the person responsible a specific amount of time to meet either of these requirements. The length of time will depend on how serious the problem is and any harm it is causing.

e) Make a retrospective application

In some cases it may be appropriate to ask the person responsible to submit a retrospective planning application. Until we make a decision on the retrospective application, we will not take formal action. We will only encourage a retrospective application if we consider that the situation has no negative effects or if the operations or work could be made acceptable by placing conditions on the planning permission. The person applying would then have to keep to these conditions. This does not prevent the developer submitting an application where they are advised it is unlikely it will be granted.

An owner or developer should never rely on 'retrospective permission' to get permission for unauthorised work. Anyone doing this is taking a considerable risk and may face formal enforcement action if planning permission is refused. If we do receive a retrospective planning application the normal neighbour notification and publicity will be carried out and we will fully consider any comments made before we make a decision.

Retrospective planning applications are dealt with like any others and we will take into account the Local Development Plan, responses from consultees and the impact on the area and public safety. The application cannot be refused simply because it is retrospective. If we grant planning permission or if the unauthorised activity stops and any harmful effects are put right, we will not take any enforcement action.

f) Take formal enforcement action

If the problem continues beyond the timescale that we give to put right any harmful effects or to submit a planning application, we will consider what formal enforcement action we should take to deal with the matter. We will normally take formal action if a situation where planning control has been broken is causing harm to an area and where negotiations have failed to deal with the matter. We may also take action if we have received a retrospective application which is unacceptable on its planning merits and cannot be made acceptable by placing conditions on it.

Taking action has to be in the public interest. We will not take action simply because someone does not have planning permission or does not make a retrospective planning application. Only a relatively small number of cases result in us taking formal enforcement action. This usually involves either an 'enforcement' or 'breach of condition' notice being served on the owner and occupier of the land and other persons with an interest in the development – this can include those with a

financial interest in the land such as a lender. Serving a notice can have severe repercussions for a property and can for example impact on the ability of the owner to sell it or seek further lending.

Most notices include:

- a description of the problem;
- the steps that should be taken to put the situation right;
- the timescale for taking these steps;
- the consequences of not taking these steps; and
- where appropriate, any rights of appeal that the person has and how to make an appeal.

We keep an online enforcement register with details of enforcement notices, breach of condition notices and stop notices. You can see details of notices which have been served since 1st September 2012 online at [www.southlanarkshire.gov.uk](http://www.southlanarkshire.gov.uk). Service standard

#### **SERVICE STANDARD**

We aim to provide an initial formal response to enquiries (including the proposed course of action to be taken) within the following timescales

- High priority cases – 20 working days
- Medium priority cases – 40 working days
- Low priority cases – 60 working days

You will be advised if no action is to be taken and the reasons why.

Where appropriate we will provide regular updates on the progress of the investigation.

#### **SERVICE STANDARD**

Where a breach of planning control cannot be resolved and formal action is justified a Notice will be served. The Council will write to the recipient to explain what is required and the timescales involved.



## **7 Not keeping to legal notices**

It is only when someone who has been served with a notice does not comply with its requirements that an offence is committed. If this is the case the options available to us include

- carrying out work to put the problem right and charging the person for the costs involved;
- getting a court order to stop or prevent someone from breaking planning controls;
- referring the case to the Procurator Fiscal for possible prosecution; and
- serving a fixed-penalty notice.

We may consider whether we could carry out the work ourselves (although only a very limited number of cases are likely to involve direct action due to the nature of the problem, the costs involved and the problems of recovering the costs from the person responsible). We may also decide to seek prosecution. This involves reporting the case to the Procurator Fiscal. If the Fiscal accepts a case, the matter is referred to the Sheriff Court and a date is set for a trial. If the case is not accepted, we will not continue with enforcement action unless a revised notice is served based on new evidence. We would usually only make a report to the Fiscal as a last resort and if the problem is causing serious harm. Finally we are able to serve a Fixed Penalty Notice. The responsible person has the option to pay, within 30 days, the fixed penalty, which would indemnify them from prosecution.

**Service standard** If someone does not keep to the terms of any enforcement notice, we will make every effort to sort the case out satisfactorily. Options include:

- direct action by the council.
- getting a court order;
- referring the matter to the Procurator Fiscal for possible prosecution; or
- serving a fixed-penalty notice

## **8 Appeals against notices**

Anybody served with an enforcement notice has a right of appeal to Scottish Ministers. We will let anyone know about the appeal if they have sent us information on the breach.

If an appeal is made, the notice will have no effect until the Scottish Ministers make a decision on it. This may take a number of months from when the appeal is made. During this time, the unauthorised activity may continue. If the Scottish Ministers agree with us and decide that the person responsible should keep to the notice, they may give them extra time for this to be done. Or, the Scottish Ministers may cancel the notice.

There is no right of appeal against a breach of condition notice, a stop notice, a temporary stop notice or a fixed-penalty notice.

## **9 Enforcement and advertising**

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements may be displayed with what is called 'deemed consent'. This means that they do not need advertisement consent if they meet the conditions set out in the regulations. We have the power to serve an enforcement notice if we think the advert is affecting the amenity of an area or public safety. This gives a time period (normally 28 days) for a person to keep to the notice. However, we can reduce this period to seven days if we believe there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being needed. An

We also have powers to remove or destroy placards and posters that do not have planning permission or 'deemed consent'. If we can identify the person who put up the poster, we have to give them at least two days' notice that we plan to take the poster down. If we cannot easily identify them, we can remove the advert immediately.

## **10 Trees**

We have powers to make Tree Preservation Orders where the trees make a positive contribution to the amenity of an area. When a TPO is in place it is an offence to cut down, lop, top or willfully damage a protected tree without our consent. The same restrictions apply to trees within a conservation area. Any person who is responsible for unauthorised works to trees is guilty of an offence and may be prosecuted.

Owners of trees that are protected should make an application to us before carrying out any work. When we grant consent it will normally be a requirement to plant a replacement tree(s).

When granting planning permission for new development we may add a condition to prevent the removal of trees as well as making sure trees that are to be retained are protected during the development. Failure to adhere to this type of condition can result in the serving of a breach of condition notice.

Where a tree protected by a tree preservation order is removed, uprooted or destroyed in contravention of the order or any conditions of a consent given under a tree preservation order requiring the replacement of trees is not complied with, the council can issue a replacement tree notice requiring the owner of the land to plant a tree or trees. Any notice served can be appealed to the Directorate for Planning and Environmental Appeals.

## **11 Enforcement powers**

We have a range of enforcement powers available and will need to decide, in each case, which power is best suited to dealing with a particular situation. If we need to take formal enforcement action, we will usually serve an enforcement notice, a breach of condition notice or, in urgent or very serious cases, a temporary stop notice or a stop notice, on the person responsible for breaking the condition as well as the landowner.

### **Types of notice**

**Breach of condition notice** – this is used to enforce the conditions applied to any planning permission. It applies from the date it is served. We may use this instead of an enforcement notice (see below), and we can serve it on any person carrying out the development or any person who controls the land. There is no right of appeal. Not keeping to a breach of condition notice is an offence and can result in us deciding to prosecute, with a fine of up to £5000. Or, we can serve a fixed-penalty notice for each step that has not been taken, with a fine of up to £300 for each notice.

**Enforcement notice** – this must be served on the current owner, occupier and anyone else with an interest in the property. This is generally used to deal with unauthorised development, but can also apply to breaking planning conditions. There are similar notices and powers to deal with listed buildings (see below), and advertisements. An enforcement notice will say: what steps must be taken to sort out the problem and when they have to be completed. This amount of time has to be reasonable and will depend on the amount of work that needs to be carried out. If you do not keep to an enforcement notice within the time shown, it is an offence, and may lead to a fine of up to £50,000 in the Sheriff Court.

**Listed building enforcement notice** – this must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are similar to those outlined above. The notice must describe the steps to be taken to sort the problem out and a final date for doing so. If you do not do what the notices asks by the date shown, it is an offence. There is the right of appeal to Scottish Ministers against the notice. Breaking listed building control is a serious matter. It is a criminal offence to carry out unauthorised work to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead either to an unlimited fine or imprisonment.

Stop notice – this is used in urgent or serious cases where unauthorised activity must be stopped, usually because of public safety. When we serve a stop notice, we must also issue an enforcement notice at the same time. There is no right of appeal against a stop notice and if you do not keep to the notice, it is an offence. You can though appeal against the enforcement notice. If a stop notice is served without a good reason, or an appeal against the enforcement notice is successful, we may face claims for compensation. As a result, we need to carefully assess when to use stop notices.

Temporary stop notice – we can use this to stop an activity that will damage the environment or local amenity and there is a clear and immediate need to stop it. It can only be used to stop the activity for up to 28 days. If the activity is to be stopped for longer, we will have to serve some other form of notice. We do not need to serve an enforcement notice at the same time and there is no right of appeal. If you do not keep to the notice, it is an offence.

#### Other powers

Planning contravention notice – this is used to gather information about activities on land where we suspect that planning control has been broken and is normally served at the beginning of the enforcement process. It is served on the owner or occupier, on a person with any other interest in the land or anyone who is carrying out operations on the land. That person will have to provide information about operations being carried out on the land and any conditions or limits applying to any planning permission already granted. If you do not keep to the notice within 21 days of it being served, it is an offence and can lead to a fine in the courts.

Notice under section 272 (of the Town and Country Planning (Scotland) Act 1997) – this provides limited powers to gather information on interests in land and how land is used. If you do not provide the necessary information it is an offence.

Amenity Notice under section 179 (of the Town and Country Planning (Scotland) Act 1997) – this allows planning authorities to serve a notice on the owner, lessee or occupier of land which is negatively affecting the area. The notice sets out the action that needs to be taken to sort the problem out within a certain period.

Notice under section 33A (of the Town and Country Planning (Scotland) Act – introduced by section 9 of the 2006 Act) – this allows us to serve a notice saying someone needs to make a planning application for a development that has already taken place. We can use this to encourage you to send us an application that we think might be granted with some conditions that would make the development acceptable.

Interdict and interim interdict – this is an order made by the courts and is used to stop or prevent a problem with planning control. Court proceedings can be expensive and we normally only apply for orders in serious cases or where enforcement notices have been ignored in the past. However, we can get an order in relation to any situation where control has been broken without having to use other powers first. Breaking an order is treated as a contempt of court and carries heavy penalties.

Powers to enter land - we have powers to enter land to see if planning control has been broken; check if you have kept to a formal notice; and check if a problem has been dealt with satisfactorily. This power applies to any land and may involve officers entering land next to the site where the problem took place.

## **Planning Enforcement FAQs**

### **If I make a complaint against someone will they find out it was me?**

All complaints made to the Council about planning enforcement matters are confidential and are not divulged to the subject of the complaint. In some circumstances your details may, however, be given to other Council services if they have powers to assist in investigating your complaint. If a complaint is made about a case that proceeds as far as prosecution proceedings, evidence may be required from you to increase the chances of a positive result, but you would be contacted about this beforehand to enable you to consider your position.

### **I don't want to leave my name or details; will my complaint still be investigated?**

If an anonymous complaint is received, we only investigate where they will give rise to a serious planning harm.

### **Somebody has made a complaint against me; can I find out who it was?**

The information submitted to the Council forming part of an enforcement complaint is considered to be personal data, which is, therefore, exempt from the provisions of the Freedom of information Act 2000 (As Amended) and Environmental Information (Scotland) Regulations 2004 and does not have to be disclosed by the Council. The only details which may be revealed once a case has been closed are the nature of the complaint made, i.e. wall built without planning permission.

### **My neighbour does not have planning permission for building work they are carrying out; can you force them to stop building?**

The Council does have the power under the planning legislation to stop building work. However, in most cases, including for example unauthorised development at a residential property, it will not be expedient to exercise this power. In exceptionally rare circumstances there is the power to serve a Notice requiring that unauthorised development is immediately stopped, where serious planning harm is caused.

### **Is building an extension/garage/conservatory etc without planning permission a criminal offence?**

No, when a breach of planning control is confirmed and an Enforcement Notice is served requiring the removal of an unauthorised development, it is a criminal offence to fail to comply with the requirements of the Notice in the time given.

### **My neighbour is repairing and/or selling cars on the road outside their house; can Planning Enforcement do anything about this?**

No. If an obstruction of the public road is being caused by the activity, the police should be contacted. In some circumstances the Council's Roads Service may be able to investigate and instigate action under Roads Legislation.

### **My neighbour is building an extension that encroaches slightly onto my property; can Planning Enforcement do anything about this?**

Planning Enforcement cannot become involved in matters relating to boundary disputes or allegations of trespass onto your property. If an extension is constructed on what you believe is part of your land, you should seek legal advice from a solicitor/legal advisor about how to pursue the matter. Similarly, if a neighbour has erected scaffolding on your property to enable them to construct an extension, the Council does not have any power to take action.

### **Do my neighbours need planning permission to park a caravan/motorhome on their property/driveway?**

Planning permission is not required for the parking of a caravan/motorhome within the curtilage of a domestic property. Restrictions on matters of this nature are often written into the deeds of a property but

this is not something over which the Council has any powers of enforcement. A civil action would have to be taken in cases such as these.

**Do my neighbours need planning permission to allow someone to sleep in a caravan/motorhome stationed on their property?** Planning permission would not be required for the use by a family member or friend to use a caravan/motorhome as living accommodation ancillary to the main dwelling.

**My neighbour has constructed a fence that blocks off my right of access to the rear of my property; can Planning Enforcement do anything about this?**

Planning Enforcement cannot become involved in and has no power to take action regarding matters relating to access rights. If a neighbour has fenced off part of their garden or a shared private drive over which you believe you have right of access, you should seek legal advice from a solicitor/legal advisor about how to pursue the matter. Similarly, if your neighbour constructs a fence or wall over a public footpath or a public right of way, Planning Enforcement does not have the power to take any action in respects of the encroachment. The Council's Road Service may be able to investigate development that appears to encroach onto a public footpath. Planning Enforcement can only investigate an alleged unauthorised boundary wall or fence if it exceeds Permitted Development height restrictions.

**Does my neighbour need planning permission to change windows or add new windows or roof lights in their house?**

In many cases, planning permission is not required to replace windows, or to add new windows or install roof lights in a dwellinghouse. If the property is a listed building or located within a Conservation Area, listed building consent and/or planning permission will be required.

**Does my neighbour need planning permission to use a room in their house as an office? There is something in my deeds that says the properties in this area can only be used for residential purposes.**

A property owner can usually use a room in their property as a home office, without needing to apply for planning permission. The Planning Service has no power to take action regarding matters relating to the content of your deeds. If a neighbour has done something which you think is prohibited or restricted by the deeds, you should seek legal advice from a solicitor/legal advisor about how to pursue the matter.

**I have received a letter from Planning Enforcement telling me that my extension is unauthorised. I have only demolished and replace my rear extension with an extension of an identical size, so I don't need planning permission, do I?**

If you demolish anything such as an extension, garage, outbuilding, wall, or fence and replace it with something identical, you may still require planning permission. Whether or not, you need planning permission will depend on a number of factors. The fact that something similar or identical existed before is not a relevant factor in determining whether or not planning permission is required.

**If planning conditions have not been met before a development starts and the planning permission requires information to be agreed in advance, for example details of landscaping proposals, will Planning Enforcement stop the works on site?**

Enforcement action must always be proportionate with the breach of planning control to which it relates. In such a case, we would assess the seriousness of the breach and its impact when deciding to take action. In many cases, the breach may not be causing serious harm to warrant the serving of a Stop Notice or Temporary Stop Notice. In some cases, it may be expedient to take enforcement action where the information or pre-works required by the condition is crucial to protect public amenity or public safety.

**What if a complaint is made about your property?**

If a complaint is received alleging a breach of planning control at your property the Council has a duty to investigate the complaint to establish if a breach of planning control has taken place. In many cases, it is

often established that no breach has taken place, or that the breaches are not intentional and arise from a misunderstanding or no awareness of planning regulations. Very occasionally, breaches are investigated which are deliberate and a flagrant disregard for planning regulations.

When investigating a complaint, a Planning Enforcement Officer will visit your property. If you receive a letter, email or a visit from a Planning Enforcement Officer you are encouraged to respond promptly, positively and to provide any information that can help clarify the alleged breach and resolve it quickly. It is common practice for Planning Enforcement Officers to ask questions about your land or activities/works that you might be carrying out. Once the investigation is complete, the Planning Enforcement Officer will write to you to confirm if a breach has taken place or not. Where a breach has occurred, there will be a number of options outlined to address the breach, depending on the severity of the breach.

Property owners should be aware that development which does not have the necessary planning permission, or development that has not been carried out in accordance with a planning permission, is unauthorised. Any unauthorised development could delay or potentially prevent a future sale or property/land if the relevant permissions do not show up on land searches. Likewise, where enforcement action has been taken, Enforcement Notices and other Notices will also appear during legal searches on the property