

Appeal Decision Notice

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Decision by David Liddell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-320-2071
- Site address: Site South Of Langmuirhead Road, Auchinloch, G66 5LE
- Appeal by Stewart Milne Homes against the decision by North Lanarkshire Council
- Application for planning permission 13/00850/FUL dated 17 June 2013 refused by notice dated 28 February 2014
- The development proposed: Erection Of Housing Development (67 Units)
- Date of site visit by Reporter: 19 June 2014

Date of appeal decision: 31 July 2014

Decision

I allow the appeal and grant planning permission subject to the 24 conditions listed at the end of the decision notice. See also the 4 advisory notes at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. In this case the development plan comprises the Glasgow and Clyde Valley Strategic Development Plan and the North Lanarkshire Local Plan. None of the parties have made specific reference to the strategic development plan, and I am satisfied that the proposal does not raise issues of wider strategic importance.
3. Having regard to the provisions of the development plan the main issues in this appeal are:
 - the principle of residential development on this site;
 - the acceptability of development in part of the green belt;
 - landscape impacts;
 - impacts on biodiversity;
 - impacts on public footpaths and recreation;
 - road safety;
 - the amenity of neighbouring properties; and
 - the layout and design of the proposed development.



The principle of residential development

4. The majority of the site, including the curtilages of all the proposed houses, is allocated for housing development in the North Lanarkshire Local Plan, adopted by the council in 2012. Housing development on this part of the site is supported by policy HCF2 Promoting Housing Development and Community Facilities. Schedule HCF2 BB of the plan identifies the capacity of the site as 56 houses. The principle of housing development on this part of the site is therefore established.

Green belt

5. Part of the site, on its southern boundary, is identified as green belt in the local plan. It is covered by policy NBE3 Assessing Development in the Green Belt and Rural Investment Area, which lists the types of acceptable development in the green belt and the criteria against which such proposals are to be assessed. It is proposed to site the basin for the sustainable urban drainage system (SUDS) for the development on this part of the site, along with a foul water pumping station and a vehicle turning area. This part of the site forms part of a wider area of land sitting between the remainder of the appeal site to the north and Lenzie Golf Club to the south. This wider area is largely overgrown grassland, and marshy in parts. The concrete remains of a former playground are evident, and I understand there was previously a football pitch.

6. Neither housing development or its supporting infrastructure such as a SUDS are listed in policy NBE3 as types of acceptable development in the green belt. This element of the proposal is therefore contrary to policy NBE3.

7. A water main crosses the site in a broadly west-east direction, meaning that the developable area of the site is in two parts – one to the north of the wayleave for the water main, and one to the south. The appellants contend that, if restricted solely to the site allocated in the local plan, including the SUDS facility within the site would mean a road layout of 2 straight lines, which would not be attractive nor respond well to the Scottish Government's policy Designing Streets. Locating the SUDS facility further south, it is argued, allows a safer and better layout and is required to make the site effective for housing development.

8. There appears to me to be sufficient land available within the site allocated for housing in the local plan to accommodate the SUDS facility, whilst allowing a similar road layout to that proposed. I acknowledge that such a change is likely to mean less houses could be developed. The local plan identifies the capacity of the site as 56 houses, not the 67 proposed. Therefore I do not consider it essential that the SUDS facility is located outwith the allocated site in order to facilitate development of the site.

9. However, I do recognise that the proposed location of the SUDS facility has afforded greater flexibility in determining the layout of the remainder of the site, in particular given its sloping nature and the water main which crosses it. In these circumstances it is appropriate

to consider whether there any adverse impacts of this aspect of the development which would justify dismissing the appeal.

Landscape

10. As the majority of the site is allocated for housing development, the main landscape considerations in my view relate to the proposed boundary treatments and to the impact of developing that part of the site which is in the green belt.

11. There are existing hedges along the southern, eastern and northern boundaries of the site. These are mainly of hawthorn, although interspersed with a number of mature trees, including elder. There are a number of gaps in the hedges along these boundaries. There is a line of ash trees along the eastern boundary, some of which are protected by a Tree Preservation Order. A number of these ash trees appear to be dead or dying. Leaving aside the area of the site which extends into the green belt, it is proposed to retain the hedges. I am satisfied that planning conditions would ensure the retention of these hedges, their strengthening by new planting and an appropriate maintenance regime, and can confirm which if any of the ash trees on the eastern boundary require to be felled.

12. The SUDS facility is likely to have a largely undeveloped appearance, albeit that such facilities can appear somewhat geometric. The vehicle turning area and the equipment associated with the pumping station would more obviously have the appearance of built development. Overall, however, in my judgement the proposed development within this part of the site would be modest in scale and with relatively minor visual and landscape impacts which I do not consider to be significantly harmful to the appearance and openness of the green belt.

13. The appellants acknowledge that extending the site into the green belt would result in the felling of some of the existing hedge along this boundary. The boundary of the allocated site which would be 'breached' in this way is around 70 metres. The gaps in the hedge at this point are such that around 40 metres of hedge along this boundary would be removed.

14. The loss of this length of hedge would be less than ideal. However, the landscaping proposals for the site, which can be controlled by planning conditions, make provision for planting of trees and hedging along the extended site boundary. This would provide a degree of screening to the SUDS facility and turning area.

15. Within the context of the wider development proposal, taking into account the existing condition of the hedge and the proposals for replanting, the landscape impacts of the loss of the existing hedge would in my view therefore be minor.

16. In respect of its landscape impacts, I therefore consider that the proposal complies with local plan policy DSP4 Quality of Development, which requires existing landscape features to be safeguarded or enhanced.

Biodiversity

17. The appellants submitted an ecological report in support of the planning application. This contained surveys for habitats, breeding birds and protected species. The majority of the development site itself is semi-improved neutral grassland of low nature conservation value. Of higher value are the hawthorn-dominated hedgerows on the boundaries of the site. The report recommends that hedges should be retained where possible, protected during construction works, and the gaps planted with hawthorn. Hedgerow to be removed should be limited to that necessary for the implementation of the development. The breeding bird survey indicates that the hedgerows in particular are suitable habitat for a range of breeding birds, and a number of species were identified.

18. The loss of hedgerow required to extend the site into the green belt area would reduce the extent of this type of habitat on the site. However, taking into account the condition of the hedge and the proposed replacement hedge planting around the site, I am satisfied that the overall impacts of this on biodiversity would be relatively minor.

19. The protected species survey found that water voles were present in an area of wetland to the south of the site and in the ditch which runs in a south-easterly direction from a point on the southern boundary of the site. The ecological report recommends mitigation measures to ensure that construction work does not impact on water voles, and also notes that the proposed SUDS facility could be designed to enhance the habitat available to water voles. I note that Scottish Natural Heritage does not object to the proposals, and recommends that the measures proposed in the ecological report should be implemented.

20. Given the results of the ecological surveys, and that the majority of the site is allocated for housing development, I am satisfied that the development is acceptable in respect of its impacts on breeding birds and water voles, and on hedgerows and other habitats. Planning conditions can ensure that there is no adverse impact on water voles and that the recommended measures in the ecological report are implemented. I therefore consider that, in so far as impacts on biodiversity are concerned, the proposal is consistent with local plan policy DSP4 which requires wildlife interests to be safeguarded or enhanced.

Footpaths and recreation

21. A public footpath and claimed right of way lies along the southern boundary of the allocated housing site. This joins, at the south-east corner of the site, a footpath and right of way which runs along the eastern boundary of the development and leads to the village of Auchinloch to the north. For the most part these footpaths lie outwith the development site, although adjacent to it. Although the outlook from the paths would change as a result of the development, they would not be rerouted or blocked.

22. The exception to this is that part of the southern footpath which passes through the green belt part of the site, along the existing hedgerow. It is proposed that this be diverted for a short distance, taking it through the vehicle turning area and passing the SUDS facility before re-joining its current alignment. Although this would change the character of the path at this point, I am satisfied that this minor alteration would have no significant impact

on the convenience of users of the path. It would connect it with the new housing development at this point. I therefore consider that the proposal satisfies the requirements in local plan policy DSP4 to safeguard or enhance existing rights of way. Any diversion of the right of way would be subject to any required statutory procedures under the relevant legislation.

23. Auchinloch Community Council refers to the former playing field and football pitch within the wider area of land to the south of the allocated site, of which the area proposed for the SUDS facility and turning area forms a part. It is stated that the community, through the Auchinloch Community Development Trust, wishes to develop this area for community recreation.

24. Whilst I recognise this aspiration, I have not been provided with any evidence which demonstrates whether this is likely to happen, or when. The material before me shows a football pitch was located outwith the development site, in an area west of that which is now proposed for development. The remains of the playground are further west. In these circumstances, I do not consider that the proposed extension of the site into the green belt causes demonstrable harm to these aspirations sufficient to justify dismissing the appeal.

Road safety

25. I acknowledge the concerns expressed by the community council and some residents about the potential impacts of the proposal on road safety and congestion. However, the site is allocated for housing development in the local plan, and requires to be accessed from Langmuirhead Road. The Transport Statement submitted in support of the proposal indicates that it is unlikely that there would be significant congestion as a result of the development. The council's transportation officials have not objected to the proposals, and a planning condition can ensure that appropriate visibility splays for the main site access are provided.

26. In these circumstances, I am satisfied that the proposal is acceptable in so far as impacts on road safety are concerned, and complies with local plan policy DSP4 in this regard.

27. It is proposed to relocate the existing stop for west-bound buses on Langmuirhead Road further south, towards the south-west corner of the site. Although I note that there is a further west-bound bus stop within the village, I agree that the relocation of this would mean some existing residents would have further to walk, uphill, from the bus stop to their homes. The proposed new location would serve the new development, and be sited close to the affordable housing element. In any event, I do not consider that this matter need be resolved prior to determining the appeal, and I leave the final location of the bus stop to be resolved between the council, the appellant and other relevant parties.

Residential amenity

28. Concerns have been expressed about loss of privacy and amenity to the adjacent housing on Langmuirhead Road to the north of the site. The proposed houses fronting

Langmuirhead Road would follow a similar building line, although the road curves at this point, to the existing houses to the east. South of these existing houses, new houses would sit 'back to back' with them, at a lower level and with the existing stretches of hedgerow and mature trees intervening along this boundary between the back gardens of the houses. In my judgement this provides a satisfactory relationship with the existing houses and is an appropriate layout, in particular given the water main crossing the site and its sloping nature. I am therefore satisfied that the proposal avoids harm to neighbouring amenity, as required by local plan policy DSP4.

Layout and design

29. Some objectors have criticised the proposed layout of the development, and the council acknowledges that the provision of two relatively long cul-de-sacs is not ideal. However, the sloping nature of the site and the water main which runs across it restrict the amount of developable land to two elongated sections to the north and south.

30. Concerns have been expressed that the affordable housing within the development would be provided in a separate part of the site. I note, however, that this element of the proposal has evolved, following consultation with the council's housing and social work services, to reflect local requirements.

31. Given the constraints on the site, and noting that it is allocated for housing development, I find that the proposed layout is acceptable and satisfies the requirements of local plan policy DSP4.

Conclusion

32. I have found that the part of the development proposed in the green belt is contrary to policy NBE3 of the local plan. I must, therefore, conclude that the proposed development is contrary to the development plan. However, in my view the considerable benefits from the provision of open market and affordable housing resulting from the development would far outweigh the very limited impacts on the green belt which I set out above. Overall, therefore, I am satisfied that the proposal is consistent with the objectives of the local plan.

33. I have considered all other matters raised, but none lead me to alter my conclusions.

34. The council has provided a list of planning conditions which it recommended be imposed were the appeal to be allowed. These are acceptable to the appellants, and I have used them as the basis for the conditions I have imposed. I have, however, made a number of modifications to them to aid consistency and clarity and to ensure compliance with Circular 4/1998: The Use of Conditions in Planning Permissions. I have omitted conditions requiring the posting of site notices and that development be carried out in accordance with the approved plans, both of which I find to be unnecessary and therefore fail to meet the tests in the Circular.

35. The council proposed a planning obligation covering the provision of affordable housing, but has not provided a detailed explanation of why this cannot be secured through

a planning condition. The appellants have produced a draft agreement covering this matter, but have argued that a condition will suffice. Because the appellants are themselves to ensure the construction of the affordable housing units on site, I am satisfied that the provision of affordable housing can be adequately ensured by means of a planning condition. I have imposed such a condition, based on the wording suggested by the appellants, which requires the detailed scheme for the provision of affordable housing to be agreed between the appellants and the council. The draft legal agreement also provides for a contribution for play facilities. However, the council has proposed that conditions secure the provision of these facilities by the developers. In these circumstances, I see no need for a planning obligation.

David Liddell

Reporter

Schedule of drawings

Development layout drawing no LRA-ARC-001 Rev.F
Engineering layout (Sheet 1) drawing no ENG/006/-01 File no 2215
Engineering layout (Sheet 2) drawing no ENG/006/-02 File no 2215
SUDS details drawing no ENG/011
Landscape layout drawing no 127.68.01
S11-97-3D-36 Rev.C
S11-117-4D-35 Rev.D
S11-126-4D-36 Rev.C
S11-130-4D-36 Rev.C
S11-140-5D-36 Rev.C
S11-151-5D-38 Rev.B
S11-151-5D-39 Rev.B
S11-165-5D-38 Rev.C
S11-165-5D-39 Rev.B
S11-177-5D-38 Rev.B
S11-177-5D-39 Rev.B
S11-190-5D-38 Rev.C
S11-190-5D-39 Rev.B
S11-138-4SL-01
S11-138-4SL-02
S11-154-4SL-01
S11-154-4SL-02
S11-157-4SL-01
S11-157-4SL-02
S11-178-5SL-01
S11-178-5SL-02
S11-185-4SL-01
S11-185-4SL-02
S11-193-4SL-01

S11-193-4SL-02
S11-97-3D-21 Rev.C
S11-117-4D-21 Rev.B
S11-126-4D-21 Rev.D
S11-130-4D-21 Rev.B
S11-140-5D-21 Rev.C
S11-151-5D-21 Rev.D
S11-165-5D-21 Rev.C
S11-177-5D-21 Rev.C
S11-190-5D-21 Rev.C
S11-138-4SL-03
S11-154-4SL-03
S11-157-4SL-03
S11-178-5SL-03
S11-185-4SL-03
S11-193-4SL-03
S11-82/70-01
CVHA-01
CVHA-02
CVHA-03
CVHA-04

Conditions

1. That before the development starts, unless otherwise agreed in writing with the planning authority, a site investigation report shall be submitted to and approved by the planning authority. The investigation must include a site specific assessment of all intrusive site investigation works to be undertaken prior to development, and specify any remediation works required. *(Reason: to establish the extent and nature of any ground contamination in the interests of the amenity and wellbeing of future residents.)*
2. That any remediation works identified by the site investigation report required by condition 1 above shall be carried out before construction works commence. A certificate (signed by a chartered environmental engineer) shall be submitted to the planning authority confirming that any remediation works have been carried out in accordance with the terms of the agreed site investigation report. *(Reason: to ensure that any required remediation works have been implemented, in the interests of the amenity and wellbeing of future residents.)*
3. That before the development starts, unless otherwise agreed in writing with the planning authority, full details of the proposed surface water drainage scheme shall be submitted to the planning authority. These shall be certified by a chartered civil engineer as complying with the most recent SEPA SUDS guidance, and shall take full cognisance of the Flood Risk Assessment submitted with the application. The SUDS details submitted as part of this condition shall also be accompanied by an additional ecological assessment and access design statement, from an appropriately qualified person, demonstrating that the proposed surface water drainage scheme is designed, and can be implemented, with no

negative impacts on water vole habitats. The details submitted shall also clearly demonstrate how a right of way shall be maintained through the area. *(Reason: to ensure that the drainage scheme protects adjacent watercourses and groundwater, in the interests of the amenity and wellbeing of existing and future residents and in the interests of biodiversity.)*

4. That the SUDS scheme approved under condition 3 above shall be implemented contemporaneously with the development in so far as is reasonably practical. Within three months of the construction of the SUDS, a certificate (signed by a chartered civil engineer) shall be submitted to the planning authority confirming that the SUDS has been constructed in accordance with the approved plans. *(Reason: to ensure that the drainage scheme protects adjacent watercourses and groundwater, in the interests of the amenity and wellbeing of existing and future residents and in the interests of biodiversity.)*

5. That before the development starts the applicant shall provide written confirmation to the planning authority demonstrating that the development will not have an impact on Scottish Water assets and that suitable sewerage and surface water drainage infrastructure can be put in place to support the development. *(Reason: to ensure the provision of satisfactory sewerage and surface water drainage arrangements.)*

6. That before the development starts a scheme of landscaping shall be submitted to and approved in writing by the planning authority. This shall include:

- (a) details of all earth moulding and hard landscaping, boundary treatment, grass seeding and turfing, including a 5 metre landscape buffer along the southern and eastern boundaries of the site, and hedging along the frontage to Langmuirhead Road;
- (b) a further tree survey/landscaping report detailing the existing trees on site and demonstrating clearly any which are recommended to be removed as a result of disease/ill-health, with details of proposed replacement planting and re-enforcement of established hedgerow and landscaping along the southern and eastern boundaries;
- (c) details of tree protection measures across the site;
- (d) a scheme of tree and shrub planting within the site, incorporating details of the location, number, variety and size of trees and shrubs to be planted and taking account of local species and biodiversity interests; and
- (e) a detailed timetable for all landscaping works which shall provide for these works being carried out contemporaneously with the development of the site.

(Reason: to enable the planning authority to consider these aspects in detail, in the interests of amenity.)

7. That all works included in the scheme of landscaping and planting approved under condition 6 above shall be completed, in accordance with the approved timetable. Any trees, shrubs or areas of grass which die, are removed, damaged or become diseased within two years of the full occupation of the development hereby permitted shall be replaced within the following year with others of a similar size and species. *(Reason: to ensure the implementation of the landscaping scheme in the interest of amenity.)*

8. That before the development starts, unless otherwise agreed in writing with the planning authority, tree and hedgerow protection measures in accordance with British

Standard BS 5837 shall be erected along the southern and eastern boundaries of the site and at established trees and hedgerow at the boundaries with existing adjacent properties at Langmuirhead Road, and shall not be removed without the approval in writing of the planning authority. *(Reason: to protect the existing tree/hedgerow cover.)*

9. That no trees within the application site shall be lopped, topped or felled and no shrubs or hedges shall be removed from the application site without the prior approval in writing of the planning authority. *(Reason: in the interests of amenity and biodiversity.)*

10. That before the development starts a management and maintenance scheme shall be submitted to and approved in writing by the planning authority. This shall include proposals for the continuing care, maintenance and protection within the site of:

- (a) grassed, planted and landscaped areas;
- (b) the SUDS area, including the proposed footpath link;
- (c) communal fences and walls; and
- (d) play provision.

(Reason: to ensure the maintenance of the landscaping scheme in the interest of amenity.)

11. That before completion of the development, the management and maintenance scheme approved under condition 10 above shall be in operation. *(Reason: to ensure the maintenance of the landscaping scheme in the interest of amenity.)*

12. That before the development starts full details of the facing materials to be used on all external walls and roofs shall be submitted to and approved in writing by the planning authority. These materials shall respect the palette of materials agreed under condition 13 below. *(Reason: in the interests of amenity by ensuring that the materials are appropriate for the site.)*

13. That before the development starts full details of the design and finish materials to be used in the construction of the streets, footways, junctions, parking courtyards and driveways shall be submitted to and approved in writing by the planning authority. The materials shall be a well-considered palette to reflect the aims of Designing Streets and the materials agreed under condition 12 above. *(Reason: in the interests of amenity by ensuring that the materials are appropriate for the site.)*

14. That before the development starts full details of the design and location of all fences and walls to be erected on the site shall be submitted to and approved in writing by the planning authority. These details shall take account of the edge of settlement location and relationships with neighbouring properties. *(Reason: to enable the planning authority to consider these aspects in detail, in the interests of amenity.)*

15. That no dwelling hereby permitted shall be occupied until the street and footpath adjacent to it have been constructed to basecourse standard. The street and footpath shall be maintained thereafter to the satisfaction of the planning authority during the construction phase. *(Reason: to ensure satisfactory vehicular and pedestrian access to the dwellings.)*

16. That before the last of the dwellings hereby permitted is occupied all streets, footpaths, footways and manoeuvring areas shall be completed to sealed final wearing course. *(Reason: to ensure satisfactory vehicular and pedestrian access.)*

17. That visibility splays of 4.5 metres x 90 metres shall be provided in both directions from the site access to Langmuirhead Road. *(Reason: in the interests of road safety.)*

18. That before the development starts a revised plan shall be submitted to and approved in writing by the planning authority incorporating the following:

- (a) Full details of verge treatment, including any swales, footways and landscaping; and
- (b) Details and confirmation of the bus stop relocation, with the stop located as far north on Langmuirhead Road as practical.

Thereafter, the development shall be completed incorporating these approved details.

(Reason: to enable the planning authority to consider these matters in detail, in the interests of amenity and satisfactory vehicular and pedestrian access.)

19. That before development starts a Habitat Management and Protected Species Plan (prepared by an appropriately qualified person) shall be submitted to and approved in writing by the planning authority. The Plan shall integrate consideration of landscaping and SUDS elements, ensuring those are designed and constructed in light of local ecological resources and attributes, and set out construction methodology and protection measures to ensure the protection of water vole and other habitats. Once approved in writing, the requirements of the Plan shall be fully carried out to the satisfaction of the planning authority. Once development starts, monitoring and completion reports shall be submitted by an Ecological Clerk of Works on a monthly basis (or such other timescale that may first be agreed in writing by the planning authority). *(Reason: to safeguard the amenity of the area and in the interests of nature conservation.)*

20. That before the development starts a Construction Method Statement shall be submitted to and approved in writing by the planning authority. This shall include:

- (a) Details of the proposed phasing of all works;
- (b) Details of all on-site construction including means of access to the site and;
- (c) A dust management plan.

The development shall be implemented in accordance with the approved Construction Method Statement. *(Reason: in the interests of the amenity of the area and to minimise pollution risks arising from construction activities.)*

21. That before commencement of building works on any plot, unless otherwise agreed in writing, full details of the final proposed levels for that plot, including levels on immediately adjacent land, shall be submitted to and approved in writing by the planning authority. *(Reason: in the interests of amenity by ensuring that levels are appropriate for the site and for the general area.)*

22. That before the development starts a scheme for the provision of an equipped play area within the site shall be submitted to and approved in writing by the planning authority. This shall include:

- (a) details of the type and location of play equipment, seating and litter bins to be

situated within the play area;

(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;

(d) details of a DDA-compliant access; and

(d) details of the phasing of these works.

(Reason: to ensure adequate provision of play facilities within the site.)

23. That before occupation of the last dwellinghouse within the development hereby permitted, all works required for the provision of the equipped play area approved under condition 22 above shall be completed. *(Reason: to ensure adequate provision of play facilities within the site.)*

24. That no development shall commence until full details of a scheme for the provision of 16 affordable housing units on the site is submitted to and approved in writing by the planning authority. Unless otherwise agreed in writing by the planning authority, no more than 35 units of market housing shall be occupied until the affordable housing has been provided in accordance with the terms of the approved scheme. *(Reason: to ensure the provision of affordable housing on the site)*

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)

4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.)