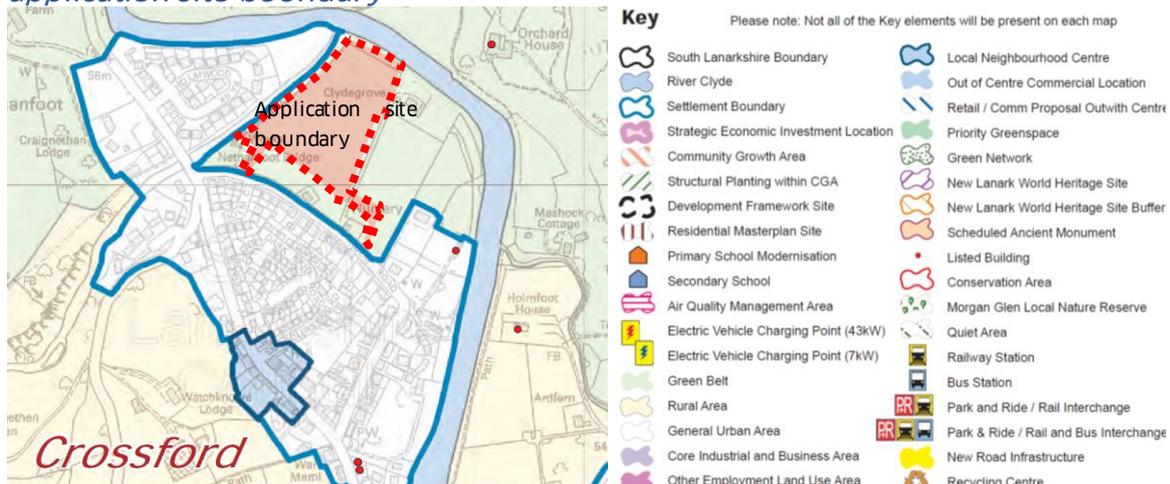


Case reference	NA-SLS-064
Application details	Formation of 18 house plots together with associated access road
Site address	Land adjacent to Holm road, Crossford, Carluke
Applicant	Mr Neil Pringle
Determining Authority	South Lanarkshire Council
Local Authority Area	
Reason(s) for notification	Category 2 (Objection by SEPA)
Representations	2
Date notified to Ministers	26 June 2018 but not fully documented until 27 June 2018
Date of recommendation	
Decision / recommendation	Clear

Description of Proposal and Site:

- The application (Council Ref: P/18/0478) proposes the development of 18 house plots and an access road on a site described as vacant agricultural land. The site measures 1.60 hectares and is located adjacent to Holm Road at Crossford, Carluke, South Lanarkshire. The site is positioned between Holm Road to the South West, and the River Clyde to the North East. The River Nethan runs to the North East of the site, and joins the Clyde to the north of the application site. Land raising works have previously taken place on this site under agricultural permitted development rights, with the site level having been raised.
- The Council accepted and considered this application as a detailed planning application for the formation of 18 plots. A site survey with proposed plot positions formed part of the application. There are no detailed house designs proposed at this time, with the Council content to leave such matters for later consideration in further applications. The houses would be positioned to the edges of the site, with a SUDS pond feature to the centre of the development. The application was supported by Flood Risk and SUDS Assessments.
- The application site is identified in the adopted South Lanarkshire Local Development Plan (adopted 2015) as being outwith the settlement boundary of Crossford and within the Green Belt.

Figure 1. The South Lanarkshire Local Development Plan (2015) with overlaid application site boundary



EIA Development:

- The proposal fits the description of being an urban development project under 10(b) of the table in Schedule 2, and above the size threshold of 0.5ha. South Lanarkshire Council considers that the proposal does not require an EIA. Considering the details of the site, it is apparent that: the area can accommodate a development in terms of landscape capacity and impact on the amenity and character of the surrounding area; and there are no environmental designations which affect the site and no sensitive species of flora or fauna are present. The Council's view that no EIA is required is reasonable.

Consultations and Representations:

- In terms of flood risk, SEPA objected in principle to the application on the grounds that it may place buildings and persons at flood risk, contrary to Scottish Planning Policy. This objection cites that the model used for the flood risk assessment should be re-calibrated to take account of recent flooding events, including a storm event in January 2018. SEPA also comment that the development would result in upstream flood impacts.
- Following notification, consultation was carried out with colleagues in the Government Flood Risk Management Team. They advise that whilst, the Flood Risk Management Team have substantial concerns about the site/case and the issues that it raises regarding the use of permitted development rights (PDR) to raise land for agricultural use on a functional flood plain they are not convinced that this difference of opinion merits the case being called in by Ministers.

Assessment:

- The site, and neighbouring land in the same ownership, has a detailed planning history which is of relevance:
 - Planning application CL/15/0040 for the formation of four house plots on the frontage of Holm Road was refused in March 2015, on the grounds that the proposals would encroach into the floodplain. An appeal to Scottish Ministers

(ref: PPA-380-2054) was upheld, and permission granted in June 2015. Three of these houses are now complete, and the fourth is under construction.

- Planning application CL/15/0393 for the extension of the garden areas of the aforementioned 4 plots was refused in February 2016, again on the grounds of encroachment into floodplain. An appeal to Scottish Ministers (ref: PPA-380-2069) was upheld, and permission granted in September 2016.
- Planning application CL/15/0426 was an in principle application for the erection of a two dwellings and was refused permission 16th February 2016. An appeal to Scottish Ministers (ref: PPA-380-2070) was upheld and permission granted September 2016.
- The most recent application reference CL/17/0436 for a single dwelling was approved in February 2018, following notification to Scottish Ministers because of an outstanding SEPA objection on flood risk grounds. It was considered that the application did not raise any national matters, and the application was cleared back to the planning authority (NA-SLC-063).

The key national issues for consideration in this application relate to green belt policy, and flood risk.

Green Belt policy

2. In terms of green belt matters, it is noted that the application site is located outwith the settlement boundary for Crossford in the Local Development Plan. However the Council has considered the green belt location, and is satisfied that the objectives of green belt designation are not compromised by this development. Whilst the Council notes that the proposed development, in land use terms, is contrary to the development plan, they have satisfied themselves of the merits of this application being a justified development in a green belt location. Consequently, there are not considered to be any national interests arising from this development in terms of the LDP position of the site or the application of green belt policy.

Flooding

3. South Lanarkshire Council are minded to grant planning consent for the proposal against the advice of SEPA and the application has been notified to Scottish Ministers as a result of this objection.
4. The policy principles of managing flood risk and drainage within SPP highlight that the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity and locating development away from functional flood plains and medium to high risk areas. Paragraph 256 of SPP sets out that the planning system should prevent development that would have a significant probability of flooding or would increase the probability of flooding elsewhere and that piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing water storage capacity.
5. Three previous planning applications (CL/15/0040 –formation of 4 house plots; CL/15/0393 –extension of the garden areas of the 4 plots; CL/15/0426 formation

of 2 house plots) made by the applicant for development on other land in his ownership at Holm Road were refused on flood risk grounds. In consultation responses on each of the applications SEPA had objected on a similar basis to that on the current application and the Council refused them based on the advice received from SEPA. All three of these decisions were subject of an appeal to Scottish Ministers with the Reporter in each case upholding the appeal and granting planning permission. The reporters concluded that the land raising (as part of a soil scrape under agricultural permitted development rights in 2015) effectively removed the area from the risk of flooding from a 1 in 200-year storm event. According to paragraph 263 of Scottish Planning Policy concerning the flood risk framework, it is the Council's view that this would place the site in the low to medium risk category and suitable for most development.

6. In terms of flood risk, SEPA objected to the current 18 house application. This objection cites that the model used for the flood risk assessment should be recalibrated to take account of recent flooding events, including a storm event in January 2018. SEPA also comment that the development would result in upstream flood impacts.
7. It is noted that the applicant has relied on permitted development rights available under current legislation (in relation to agricultural activities) to undertake land raising within the land he owns. Previous developments have been referred to the Scottish Government Reporter for review and appeals were upheld on the basis that the land raising appeared to have been carried out legitimately under PDR.
8. SEPA have objected to the planning application as they consider the existing ground conditions at the site are causing a backwater effect in the River Clyde upstream of the site, which they consider will be exacerbated by further development of the site. An increase in water level upstream (or backwater effect) and an associated increase in flood risk is contrary to Scottish Planning Policy (SPP). This detrimental outcome is the fundamental reason SEPA is objecting in principle to the further development proposed by this planning application. Given the location of the proposed development it is also SEPA's opinion that the site is at flood risk and in addition could potentially further increase flood risk elsewhere. SEPA have also objected on grounds that the model used for the Flood Risk assessment needs to be recalibrated taking account of recent data findings from a storm event in January 2018 which they consider to be only a 1 in 2 year event. They note in their response that high river levels in the Nethan could be attributable to bank engineering along the Nethan and land raising. As storm events could result in higher flood levels than originally anticipated the proposed dwellings on the site could now be threatened by flooding and cause displacement of the flood risk.
9. The Council's Report to the Planning Committee sets out that the Council Flood Unit dispute the findings of SEPA with regard to the storm event in January 2018 as their observations of flooding incidents across the whole Council area suggest that the January storm event was a much higher return period than 1 in 2 years. The Report says that the Council's Flood Management Team are satisfied that it has been demonstrated that the land at Holm Road does not now

form part of the functional flood plain and that the proposed development will not exacerbate flooding. The Council say that as the land raising was considered to have been carried out lawfully then SEPA's comments relating to the loss of floodplain storage and backwater effects cannot be considered at this time.

10. The Council in-house flooding team disputes the position of SEPA, commenting that their own observations of flooding across the Council area suggest that the January 2018 storm event was of a much higher return period than 1 in 2 years. Land raising has previously been undertaken on this site through agricultural permitted development rights. This has been at the centre of previous debate over the levels of this site, and the impact and effect of flooding upon the land. The previous appeal decisions on this site have established that the land raising works at the wider site mean it is no longer at significant risk of flooding.
11. Terranus Land & Water undertook the Flood Risk Assessment Report. Their Report of 16th April 2018 and Letter to the Application Case Officer of 5th June 2018 set out that the recommended final floor levels for the development be set out at 48.4m OD in the south, west, and north west of the site, and 48.3 OD for the north east of the site. A lower final floor level of 48.4m OD may be adopted for plots 1-10. Terranus confirm that their model takes into account peak water levels during 1 in 200 year storm event, plus climate change, and allows for a freeboard of 1000mm.
12. The Council has considered the impacts of the proposed development in terms of flooding, both at the site, and elsewhere, and is content that the development can proceed, and that the agricultural land raising works have left the site in a state which is no longer part of functional floodplain. The Council notes that SEPA's previous objections were not supported in previous appeal decisions.
13. The Flood Risk Management Team have substantial concerns about the site/case and the issues that it raises regarding the use of PDR to raise land for agricultural use on a functional flood plain. However they are not convinced that there is a case to be made for it to called in by Ministers. We note that there is a difference of opinion between SEPA and the Council's Flooding Team but this was considered in the Report to the Planning Committee.
14. The flooding risk to the site has been clearly assessed via a flood risk assessment, which the Planning Authority are satisfied with. When accounting for the local scale of the proposed development, the flood risk assessment (FRA), and the position of the Council in-house flooding team, along with previous appeal decisions raising the same issues, overall this application is considered not to warrant national attention.

Decision/Recommendation:

- You are invited to agree that the application be cleared back to South Lanarkshire Council to determine.