

the number of proposed housing units to **386 (now over 8.65ha)** (again without apparently any publicly available documentation). However this reduction is somewhat dis-ingenious – as this **386 excludes the affordable housing units** from the CR/15/0239 application (contrary to South Lanarkshire Council's Affordable Housing Policy) – which at **"up to 54"** – would actually **represent an increase overall from 437 to 440 (386 + 54) housing units**, if the social housing is included). These changes have all been made by the Planning Case

Officer apparently without any formal written requests being posted on-line, or without any revisions or correction to the original formal planning application form.

Thus the **386 housing units** reported to South Lanarkshire Planning Committee on 28 March 2017:-

- 1. Does not accord with the submitted and certified Planning Application form for this application**
- 2. Fails to specifically include any affordable housing units** – placing it in breach of the approved South Lanarkshire Local Development Plan 2015 Policy 13 and Supplementary Guidance SG.7.
- 3. Resolves to approve** (subject to a legal agreement and other conditions) **a scheme for 386 dwellings – a figure for which no apparent application** (or insofar as we can ascertain) **or layout drawings actually appears to exist.**
- 4. Fetters the Council's discretion to impartially determine any future application for the "up to 54" affordable housing units** as mentioned in the report. This subsequent application will therefore in any case now require an independent hearing outwith South Lanarkshire Council.

2.2 Downplays (by omission) the Coal Authority designation of the site as a Defined Development High Risk Area and relies upon a draft Oct 2015 report – before Final Gas Monitoring was completed – as the "Coal Mining Risk Assessment;"

2.3 Seeks to hide the contamination of the Ground Water and Surface Water by gas emissions (identified in Ground Condition Survey, para 11.4) and by invasive non-native species (through virtually redacting much of the Phase 1 Habitat & Protected Species Survey (of **52.4ha** in Enviroplan Report dated 6 Oct 2015). Thus the impact of the treatment of "invasive non-native species" is for example not even addressed in either the Flood Risk Assessment Report (of **17ha** approx. by Terrenus & Enviroplan dated 26 Oct 2015) or in the Ground Condition Survey (Draft Oct 2015 only available).

2.4 Contains no Remediation Plan, or identification of how the Flood Risk Management Plan is to take account of a) the identified Gas Emmissions b) the existing ground and surface water contamination, and c) the invasive non-native species found on the land.

2.5 Fails to apparently submit obviously revised layout plans (they all seem to be dated Oct 2015) to accord with the SEPA requirements and revised drainage requirements. Indeed it is notable that no overall layout plan(s) is/are referenced in the report or in the suggested conditions.

2.6 Fails to secure a full Environmental Impact Assessment for the application as

required by European Directive 2011/92/EU ("based on the precautionary principle and on the principles that preventative action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay." The Scottish Government in T&CP (Hierarchy of Developments)(Scotland) Regulations 2009 and in Schedule 2 to the 2011 EIA Regulations also requires an EIA "if the development is likely to have a significant effect on the environment by virtue

of factors such as its size, nature or location". The Scottish Government EIA Screening Checklist specifically requires an EIA where there are "contaminated soils or other materials". At least two of the tabled reports identify specific contamination – but with no overall EIA – there is no apparent single Remediation Plan or strategy. **The specialist Ground Investigation report found** "a high probability of contamination of the Groundwater and Surface Water" – yet this has not as yet been considered alongside the invasive non-native species (found by the Habitat Survey (as cited by SEPA – as the Habitat Survey report has been extensively redacted). Does the Scottish Government accept that a Habitat & Protected Species Survey can ever be so redacted? In the absence of an EIA there is we suggest a high likelihood of the chemical treatment of the non-invasive species contaminating the Ground & surface water further – and with likely contamination of adjoining streams and water table.

As a Schedule 2 Major Development on contaminated land, also identified by the Coal Authority as a "**Development High Risk Area**" (yet dismissed by Ground Condition Survey), and with high Flood Risk potential, it is staggering that the Council have failed to ensure there is a comprehensive EIA. This would have ensured that the interaction between the various environmental aspects is fully considered e.g.

a. How best to ensure any chemical treatment of the contaminated non-native species and/or management of identified, protected species, does not enter the water table or pollute the rivers adjoining the site. Indeed the treatment of the "contaminated non-native species" is not actually addressed in any of the other technical reports (Ground Condition or Flood Risk Assessment Reports). The severe redaction of the Habitat Report – allegedly required "as it contains information which may be helpful to those wishing to harm wildlife habits" makes it difficult to comment further;

b. Assessing the options in terms of how best the contaminated Ground & Surface water (as identified in the Ground Condition Report) can be treated having regard to the separate Flood Risk mitigation measures and related SUDS (as set out in the Flood Risk assessment Report). There is no assessment as to the effect of using the piling foundations required by the "High Risk Mining " history will have on either flooding and water table, or existing invasive non-native species contamination;

c. The Flood Risk Assessment Report does **not** address either the contamination by invasive non-native species (as per Habitat Report) or how the contamination of Ground and Surface Water (in Ground Condition Report para 11.4) is best treated.

d. The Ground Investigation Reports are also very difficult to assess as the edge of numerous pages are missing. They do however appear to be an update on many 2005 measurements (12 years old). They do identify Ground Gas contamination (11.1). They also appear to identify the presence of asbestos, copper, lead and phenol (9.2 - *localised minor soil concentrates exceeding phytotoxicity GACs*). The Ground Gas contamination of the land (11.1) is described as characteristic of a "*low generation characteristic 2 site ..with a significant source intact pollutant linkages present*, and Remedial Works required.

e. No Remedial Plan (linked also to Habitat contamination and Flood Risk Reports) has as yet been produced.

The specialist assessments (Coal Mining Risk Assessment; Flood Risk Assessment (FRA); Habitat Assessment) all seem to use different actual areas of assessment - from the **8.65ha** cited in the final Committee Report, to **11ha** , **16.5ha** in Ground Condition

Report, **17ha** approx in the Flood Risk assessment Report, **17.26ha** in the original Planning Application form, to the **52.4 ha** used in the Habitat& Protected Species Report (Enviroplan dated 6 Oct 2015 – severely redacted to the point of being useless). Some reports are not publicly available (e.g. Coal Mining Risk Assessment). Some reports (e.g. the Habitat assessment dated 6 Oct 2015) have been subject to Persimmon Review and editing (on 5 and 6 Oct 2015), and even then redacted inappropriately – allegedly because "*it contains information that may be helpful to those wishing to harm wildlife habitats*" (para 5.1(a)) – but in practice to apparently play down the contamination by invasive non-native species – which is not specifically addressed in either the other specialist reports, or in the Planning Report of 28 March 2017.

The Scottish Government EIA Screening Checklist specifically requires an EIA requirement where there are "**contaminated soils or other material**". For example - where and how are the "**elevated concentrations of gas emissions**" (identified in Executive Summary of Part 1 of the Ground Investigation Report) to be treated? Or the invasive non-native species to be treated? Neither issue is actually addressed in the planning report of 28 March 2017.

3. Conclusion

Given the level of concern around the issues we have raised in this complaint letter in relation to planning application CR/15/0239;

- (a) sub-standard public service and mal-administration on the grounds that relevant information was withheld by Planning Officers from elected members of the Planning Committee which resulted in misleading the committee by its omission and
- (b) non-compliance of procedures, evident bias and unprofessional planning practice which resulted in councillors making a perverse decision at the Planning Committee meeting of the 28th of March 2107 in relation to planning application CR/15/0239

we request:-

- An acknowledgement of this letter within the timescales specified under stage 2 of your complaint procedures
- The issuing and signing of the legal notice and decision on the current planning development application – CR/15/0239 that was approved on the 28th of March 2017 **is immediately put on hold** until a full and independent investigation and has taken place by impartial councillors and your complaints procedure has been exhausted.
- A new Planning Committee re-consider the full planning application (including site visit)

On behalf of Halfway Community Council, and the community it represents, we look forward to hearing back from you.

Should you require any further information then please do not hesitate to contact me.

Yours sincerely



Douglas Beard

Chair of the Halfway Community Council

3. Conclusion

Given the level of concern about the issues we have raised in this complaint letter in relation to planning application CR15/0239:

- (a) sub-standard public service and mal-administration on the grounds that relevant information was withheld by Planning Officers from elected members of the Planning Committee which resulted in misleading the committee by its omission and
- (b) non-compliance of procedures evident in past and organisational planning practice which resulted in councillors making a perverse decision at the Planning Committee meeting of the 28th of March 2015 in relation to planning application CR15/0239

we request:-

- An acknowledgement of the letter within the timescale specified under page 2 of your complaint procedure
- The issuing and signing of the legal notice and decision on the current planning development application - CR15/0239 that was approved on the 28th of March 2015 is **immediately put on hold** until a full and independent investigation and has taken place by impartial councillors and your complaint procedure has been exhausted
- A new Planning Committee is consider the full planning application