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| Case reference | NA-SLS-063 |
| Application details | Erection of dwellinghouse (amended application) |
| Site address | Holm Road, Crossford |
| Applicant | Neil Pringle |
| Determining Authority | South Lanarkshire Council |
| Local Authority Area | |
| Reason(s) for notification | Category 2 (Objection by Government Agency) (SEPA) |
| Representations | 1 |
| Date notified to Ministers | 19 December 2017 but not fully documented until 21 December 2017 |
| Date of recommendation | 26 January 2018 |
| Decision / recommendation | Clear |

Description of Proposal and Site:

- Planning permission is sought for a detached house and access road on a 0.625 hectare site, on agricultural land to the north of Crossford, bounded to the north by the River Clyde, and to the west by the River Nethan. Access would be taken from a new private access road via a gap between existing houses on Holm Road and other houses currently under construction.
- The proposal is an amendment on a previous application CL/17/0090 which was refused by the South Lanarkshire Council Planning Committee on 15 August 2017 on the grounds of perceived flood risk, contrary to the planning officer's recommendation to grant. The applicant appealed the Council's decision however the appeal was withdrawn. The only difference to the previous application is minor material changes involving the re-orientation of the house, and the raising of a small area of land adjoining the River Nethan beyond the levels that were the subject of the earlier proposal.
- The application site is identified in the adopted South Lanarkshire Local Development Plan as being outwith the settlement boundary of Crossford and within the Green Belt.

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. The Council's reasons for adopting this opinion are as follows: 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:

- SEPA acknowledge that the land has now been raised through agricultural permitted development rights (PDRs) outwith the functional floodplain of the Nethan and Clyde rivers. They have concern that the site is now to be used for residential purposes rather than agricultural. They have taken cognisance of previous appeal decisions which granted housing on Plots 1-5 along Holm Road. However, SEPA remain concerned that the land-raising that has taken place will result in water levels being increased on the Clyde upstream of the site by approximately 300mm which will increase the flood risk to existing property upstream. SEPA have therefore maintained their objection to the previous proposal (CL/17/0090) on the basis that it may place buildings and persons at flood risk contrary to Scottish Planning Policy (SPP) and to the aims of the Flood Risk Management (Scotland) Act 2009.
- No representations or objections from other statutory consultees were received.
- The Upper Clyde Angling Protective Association have objected to the application on the grounds of access to the river bank. The Council's view is that the structure of the proposed house would not impede access to the river bank, and consider this to be a private legal matter and not a material consideration in determining the application.
- Following notification, the Scottish Government Flood Risk Management Team were consulted. After discussions, they remain concerned about allowing piecemeal development on the functional floodplain, contrary to SPP, and the change of use of land (from agriculture to residential) after the land has been raised out of the flood plain using PDRs and the unhelpful precedent this sets. However, they did not consider this particular case of such national interest to warrant call-in for Ministers scrutiny.

Assessment:

1. 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 their objection.
2. The key consideration in this case is therefore whether this application is considered to raise issues of national importance which warrant call-in by Ministers based on the flood risk objections from SEPA.
3. With regards to the proposal and the principle of development, 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.
4. 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. It is noted from the Council's report that there is no evidence that flooding has occurred elsewhere as a result of the previous land-raising on the site.

5. Notwithstanding SEPAs response, the Council's Flood Management Team have considered the updated Flood Risk Assessment submitted with this application and are satisfied that it has been demonstrated the land at Holm Road does not now form part of the functional flood plain and that the proposed development of this discrete part of the applicants landholding will not impact upon the flood risk of neighbouring lands. The Council have concluded that the proposals accord with planning policy on flood risk.
6. The Scottish Government Flood Risk Team have been consulted upon notification. They have concerns around the piecemeal erosion of the flood plain and the change of use of land (from agriculture to residential) after the land has been raised out of the flood plain using PDRs and the unhelpful precedent this sets. However, given the scale of the application and the outcome of the previous 3 appeals, they do not consider this particular case of such national interest to warrant call-in for Ministers scrutiny.
7. The concerns of SEPA and the Scottish Government's Flood Risk Team are noted. It appears the proposed house would no longer be in the flood plain, as a result of land raising under agricultural PDRs. The Council's Flood Management Team do not have evidence that flooding has occurred elsewhere as a result of the previous land-raising on the site. It is noted that the Council and appeal reporters on previous decisions on applications elsewhere in the applicant landholding in Holm Road, consider the land raising that has occurred is compliant with PD rights. There is a concern about the use of PDRs in areas sensitive to flood risk. However, on balance, when taking into account the local scale of the application, the conclusions of the updated FRA, in cognisance that the site is now raised out of the flood plain, and in light of previous appeal decisions to grant applications which raise the same issues, that overall, this proposal does not warrant national attention.

Recommendation:

- It is recommended that the application be cleared back to South Lanarkshire Council.