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**Report to Council**

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**Date: 4th November 2010**

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**Subject: Forestmill Section 75 Agreement**

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**Report by: Head of Community & Regulatory Service**

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**1.0 Purpose**

- 1.1. The purpose of this report is to seek approval of the terms of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 between the Council, Hermiston Securities and others in connection with the planning permission in principle (P.P.P) for a new village at Forestmill, as agreed at the Planning Committee of 29th October, 2009 (Ref: 06/00283/OUT). The conclusion of the agreement will enable the Council to grant PPP in accordance with the approved masterplan.

**2.0 Recommendations**

- 2.1. It is recommended that the Council approve the terms of the Section 75 Agreement, which has been provided to Members.

**3.0 Considerations**

- 3.1. Members will be aware that at its meeting on 29th October, 2009, the Planning Committee agreed that planning permission in principle (PPP) should be granted for the development of a new village at Forestmill subject to conditions.
- 3.2. Before PPP could be issued, however, it was resolved that the Council should enter into an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure certain matters which otherwise could not be properly secured through the use of planning conditions.
- 3.3. It was further resolved that the terms of the agreement negotiated between the Council and the Developer would be reported back to a meeting of the full Council for approval.
- 3.4. This decision was made in the context of:
- (i) the Council's overall strategic and policy support for the development of a new settlement in this location, as set out in the approved Structure

Plan, the adopted Local Plan and the approved Finalised 1st Alteration to the Local Plan; and

- (ii) the decision to grant outline planning permission for the application, as originally submitted, on 26th April 2007.
- (iii) the subsequent decision of Scottish Ministers on 10th June 2009 to withdraw an earlier call-in Direction and thereby abandon the planned Public Local Inquiry.

#### **4.0 THE TERMS OF THE AGREEMENT**

4.1 The full terms of the proposed Agreement have been provided to Members. In summary, the Agreement seeks to achieve the following key objectives

- (i) The restoration of the Meadowhill former opencast coal site.

The Agreement ensures that no development shall take place until a restoration bond (or similar financial investment) secures the full cost of restoration in accordance with the approved Restoration Plan, or the cost of implementation is placed on deposit for any parts of restoration that remain outstanding. Development is then controlled so that any development beyond 250 houses is not permitted until the Restoration Plan is commenced and any development beyond 750 houses is not permitted until the Restoration Plan is complete. This provision has been agreed with the developer.

- (ii) The provision of education, community and regeneration facilities to serve the new village.

The Agreement obliges the developer to construct a primary school (or provide the necessary funds to the Council) in accordance with the Phasing Plan. Plans and specifications for a generic two stream primary school are annexed to and form part of the Agreement. This amends the provisions in the draft agreement which was the subject of initial negotiation with the developer. Provision of plans and specifications limits Council risk to additional school provision costs as a result of the development, unless the Council agrees to amend the terms of the Agreement at any future time. Community facilities are to be provided in accordance with the Phasing Plan and Masterplan within the primary school and/or the primary school site unless otherwise agreed by the Council. This provision has been agreed with the developer.

- (iii) The provision of affordable housing.

The Agreement requires 275 (i.e. 22% of the 1250 homes) to be affordable housing units. This may include off-site provision. If any future approvals increase the number of units beyond 1250, then 22% of any additional units will require to be affordable housing units.

The provision of affordable housing will require to be in accordance with the Phasing Plan and Masterplan. This provision has been agreed with the developer.

(iv) The management and maintenance of open space, landscaped areas and woodland.

This has been an area of particular concern for the Council, given the practical difficulties that have arisen in other long term planned developments such as Muirside in Tullibody and West Myretoun/Menstrie Mains in Menstrie. The use of factors/multiple factors has led to community concern and approaches to the Council to intervene to achieve resolution. This issue was discussed at a members seminar on 30th June 2010 and the Council adoption of all communal open space, landscaped areas and woodland was proposed as the best option to secure effective long term maintenance of such areas. The developer had initially wanted to retain flexibility on the appointment of factors. More recently, the principle of Council adoption of all non-private areas has been agreed with the developer. The method of ensuring funding for the Council to maintain such areas has not yet to be agreed. However, as this is considered to be a fundamental issue for the longer term success of the development and its community, it is recommended that the Agreement makes provision for the Council adoption of all the communal/non private open space, landscaped areas and woodland, subject to an index linked 10 year commuted sum in accordance with the 'Clackmannanshire Standard' for open space (at March 2011) which is annexed to and forms part of the Agreement.

(v) The provision of an hotel, leisure club and golf course.

The Agreement requires the developers to use all reasonable endeavours to secure that the hotel, leisure, recreation and sports facilities and the golf course are developed in accordance with the Phasing Plan and Masterplan. There can be no planning control to ensure that this occurs. However, the developer intends for these facilities to be provided, and therefore accepts this provision in the Agreement.

- 4.3 As part of the negotiations on the terms of the agreement, it was agreed that certain matters could be better dealt with through the use of appropriately worded conditions attached to the planning permission in principle. Provision was made for changes to be made to the Planning Committee decision. The amended set of proposed conditions are attached to this report for information at Appendix 1.

## **5.0 Sustainability Implications**

- 5.1 As previously reported in respect of the planning application Ref: 06/00283/OUT.

## **6.0 Resource Implications**

### *6.1 Financial Details*

There are financial implications that arise from the conclusion of the Section

75 Agreement, the issuing of the planning permission and the subsequent implementation of the development. These relate to, for example, significant increased Council Tax and Business Rate revenue and increased employment on the one hand and on the other, increased liabilities in relation to the new education requirements (beyond the Agreement's aim for the school itself to be fully funded) and waste management and adoption of roads and footpaths, for example. However, achieving population growth in the County is a major economic development and regeneration priority, and the service consequences of this need to be factored in to future service budgets alongside the increased income.

6.2 The full financial implications of the recommendations are not reasonably quantifiable at this stage of the development process.

Yes

### 6.3 *Staffing*

The Forestmill proposal will be the single largest development ever to take place in Clackmannanshire. Facilitating this development will result in the diversion of staff from across the Council from other duties and functions over the next 10-20 years. To facilitate this a project management Steering Group has been formed. In addition, several Working Groups have been formed to take forward detailed work on the project. There are no proposals to take on additional staff to handle this project work.

## 7.0 Exempt Reports

7.1 Is this report exempt? Yes  (please detail the reasons for exemption below) No

## 8.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities 2008 - 2011** (Please tick )

The area has a positive image and attracts people and businesses	<input checked="" type="checkbox"/>
Our communities are more cohesive and inclusive	<input checked="" type="checkbox"/>
People are better skilled, trained and ready for learning and employment	<input type="checkbox"/>
Our communities are safer	<input type="checkbox"/>
Vulnerable people and families are supported	<input type="checkbox"/>
Substance misuse and its effects are reduced	<input type="checkbox"/>
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	<input checked="" type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input checked="" type="checkbox"/>

**(2) Council Policies** (Please detail)

Relevant policies of the Clackmannanshire Development Plan

**9.0 Equalities Impact**

9.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No ✓

**10.0 Legality**

10.1 In adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

**11.0 Appendices**

11.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 - Conditions of the Planning Permission in Principle

**12.0 Background Papers**

12.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes  (please list the documents below) No

**Author(s)**

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**Approved by**

NAME	DESIGNATION	SIGNATURE
John Gillespie	Head of Community & Regulatory Services	(Signed: J Gillespie)
Garry Dallas	Director of Services to Communities	(signed: G Dallas)



## **APPENDIX 1**

### **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

#### **OUTLINE PLANNING APPLICATION FOR A NEW VILLAGE, SOUTH AND EAST OF FORESTMILL (REF: 06/00283/OUT)**

#### **PROPOSED CONDITIONS OF OUTLINE PLANNING PERMISSION**

1. (a) Before any works start within each respective phase of development, the written approval of Clackmannanshire Council (the Council) as Planning Authority shall be obtained for the details of the siting, design and external appearance of all buildings, the means of access and landscaping, including future maintenance (Matters Specified in Conditions (MSC)).  
  
(b) Particulars of the MSC referred to in item (a) above shall be submitted for consideration by the Planning Authority, and no work shall begin until written approval has been given.  
  
(c) Application for approval of all MSC shall be made to the Council as Planning Authority within three years of the date of this permission.  
  
(d) The development hereby permitted shall begin within 5 years from the date of this permission, or within 2 years from the date of approval by the Planning Authority of the last of the MSC to be approved.
2. Further to Condition 1, first and subsequent applications for the approval of MSC, if required by the Council, shall be accompanied by:-
  - (a) A detailed Flood Risk Assessment of the proposed development, undertaken in accordance with SEPA Policy 41 and associated Technical Flood Risk Guidance. This shall be undertaken on the basis of a 1 in 200 year return period event plus 20% allowance for Climate Change. This assessment work will have specific regard to the safeguarding of the existing floodplain, the conveyance of water through and from the site into the Black Devon river system, protection of existing properties from increased flood risk and a clear definition of freeboard allowance in relation to the proposed works.
  - (b) A Drainage Impact Assessment prepared in accordance with the advice contained in "Drainage Assessment - A Guide for Scotland" and proposals prepared in accordance with "Sustainable Urban Drainage Systems - Design Manual for Scotland and Northern Ireland". These will include connections to existing infrastructure and upgrading thereof, the provision of on-site filtration and attenuation facilities, design for biodiversity, incorporating a series of ponds, swales and appropriate planting, timescales for implementation and arrangements for future maintenance.

(c) A full tree survey of all trees within and adjacent to the site, recording the species, position, height, crown spread and condition of all trees, to be carried out by a qualified arboriculturalist.

(d) A Phase 2 Intrusive Investigation to assess the nature, extent and type of contaminated material within the site, the assessment to be carried out in accordance with BS 10175 and CLR 11; and a remediation scheme to ensure that the site is fit for its proposed use in accordance with the foregoing standard, to include:-

(i) Methodology and timescales for remediation works.

(ii) Remediation targets.

(iii) Measures to be employed to deal with unexpected or not primarily identified contaminated material during development.

(iv) Measures to deal with contamination within and off site.

(v) Details of post remediation validation scheme.

(vi) Details of any monitoring or progressive decontamination on site.

(vii) Post remediation conceptual model.

(e) A Site Waste Management Plan for the development, construction and post development phases of the proposed village, produced with reference to the Council's Supplementary Advice Note - Managing Waste in Housing and Commercial Developments. The plan shall detail measures for waste minimisation, separation, re-use and recycling, identifying storage and collection requirements/facilities Including centralised facilities and composting.

(f) An archaeological field evaluation report supported by a programme for the recording and preservation of any features or artefacts of interest discovered as a consequence of this work, including measures planned to safeguard and/ or retain such features as an integral part of the village development.

(g) A scheme for protecting the proposed houses within developable areas from noise from nearby road traffic to be prepared in accordance with the guidance in PAN 56, Planning and Noise.

The development shall thereafter proceed in accordance with the requirements of any approval of MSC issued by the Council unless subsequently otherwise agreed in writing by the Council, as Planning Authority.

3. The application or applications for the approval of MSC described in Condition 1 above shall be shown on or include:-

(a) A Site Layout Plan at a minimum scale of 1:500 showing the position of all buildings, public utility and energy infrastructure, roads,



footpaths, parking areas, public and private spaces, walls, fences, children's play facilities, landscaping and public art.

(b) Plans and elevations of all buildings, showing the dimensions and type and colour of external materials.

(c) Details of existing and finished ground levels and finished floor levels, in relation to a fixed datum (preferably Ordnance Survey) and including levels immediately adjacent to the site.

(d) A Construction Method Plan or plans that contain the arrangements to minimise the environmental and road safety impact of construction activity and all vehicle movements on the adjacent public road network, during the construction phase or phases of the development. The plan will include community liaison arrangements.

4. Further to Condition 1, the first application for approval of MSC shall include the following proposals:-

(a) A scheme of structure planting with an advanced planting programme as described in Section 6, Masterplan of the New Sustainable Settlement Strategy: Forestmill, Alloa and dated October 2008, to be designed in relation to the relevant sections of the Local Biodiversity Action Plan. The scheme shall comprise:-

(i) Existing woodland and other trees and hedgerows to be retained.

(ii) The type, number and location of proposed native trees and shrubs.

(iii) An assessment of the biodiversity, habitat value and implications of the scheme along with detailed proposals for Biodiversity Enhancement.

(iv) A revised plan showing the removal of the proposed Parklands House in the south eastern corner of the site and identification of an acceptable buffer along the SSSI boundary.

(v) Timescales for phased implementation.

(vi) Arrangements for future maintenance.

(b) A specification and plan(s) of strategic roads and footpaths, including:-

(i) Roundabout and other road junctions on the A977 and Fearn Road.

(ii) The access road from the A977 to the village centre, generally as shown in blue on Figure 11, Strategic Connections - Local Context of the New Sustainable Settlement Strategy: Forestmill, Alloa and dated October 2008, including public transport access, lay-bys and turning

facilities to the commercial and village centres.

(iii) Traffic management measures along Fearn Road, from its junction with the A977 to the eastern site boundary and along Brucefield Lane and Aberdona Road.

(iv) Plans and a specification of work for all off road footpaths and cycleways.

(v) Pedestrian crossing facilities at Castlebridge Business Park and elsewhere along the A977, including connections to the National Cycle Route on the east side of the A977 and Gartmorn Dam Country Park.

(c) A Phasing Plan, identifying in plan and written form the varying components of the village development, including ground preparation and remediation, all buildings and land uses, structures, roads and footpaths, landscaping and public utility works, describing the timescales or other criteria/events for the commencement and completion of the respective phases of work. This will generally adhere to the indicative phasing plan in Section 7, Project Phasing, of the New Sustainable Settlement Strategy: Forestmill, Alloa and dated October 2008.

(d) A strategy for the provision of public art as an integral part of the village development.

(e) A detailed and approved programme of works to repair, enhance and interpret the Category B Listed Forest Mill Weir and associated historic lade within the development site.

(f) Details of the engineering works required for the relaying of the gas pipeline specifically in relation to the ecological and landscape impacts.

5. Further to Conditions 1 and 3 above, the development hereby approved shall be implemented generally in accordance with figure 10, "Concept Master plan with Meadowhill Quarry Restored" of the New Sustainable Settlement Strategy: Forestmill, Alloa and dated October 2008.

6. Further to Conditions 1 and 3, the Scheme of Landscaping within each developable area as identified in Figure 20, Developable Area and Density Analysis of the New Sustainable Settlement Strategy: Forestmill, Alloa and dated October 2008. shall include:-

(i) Existing trees and hedges to be retained.

(ii) The type, number and location of proposed native trees and shrubs.

(iii) The scope to create central integrated areas of landscaped public open space within each housing sector (village greens).

(iv) Timescales for implementation.

- (v) Arrangements for future maintenance.
7. All roads and footpaths within the village shall be constructed in accordance with the Council's Development Roads Guidelines and Specification and related Government guidance on road and footpath design.
  8. Before any works start on each respective phase of development, protective fencing, if required by the Council, shall have been erected around all trees to be retained as part of the development, in accordance with BS 5837(2005). The fencing shall be inspected by a representative of the Council, and shall remain in place for the duration of the construction work within each respective phase.
  9. No construction work shall take place and no construction vehicles or equipment shall operated outwith the hours of 0800-1800 hours Monday to Friday, 0800-1300 hours on Saturday, and at no time on Sundays or local Bank Holidays, unless otherwise agreed in writing by the Council.

### **Reasons**

1. In order to comply with the Town and Country Planning (Scotland) Act 1997.
2. This additional information is required to that provided with the Environmental Statement, but can only be provided in conjunction with detailed proposals.
3. This permission has been granted in outline only. No detailed proposals have been approved beyond those shown indicatively on the master plan.
4. This permission has been granted in outline only. No detailed proposals have been approved beyond those shown indicatively on the master plan.
5. In order to ensure that the Reserved Matters comply with the development that has been approved as part of this planning permission.
6. This permission has been granted in outline only. No detailed proposals have been approved beyond those shown indicatively on the master plan.
7. In the interests of road and pedestrian safety.
8. In order to ensure that trees are properly protected during the construction phase of the development.

9. In order to safeguard the amenity of nearby residents during the construction phase of the development.