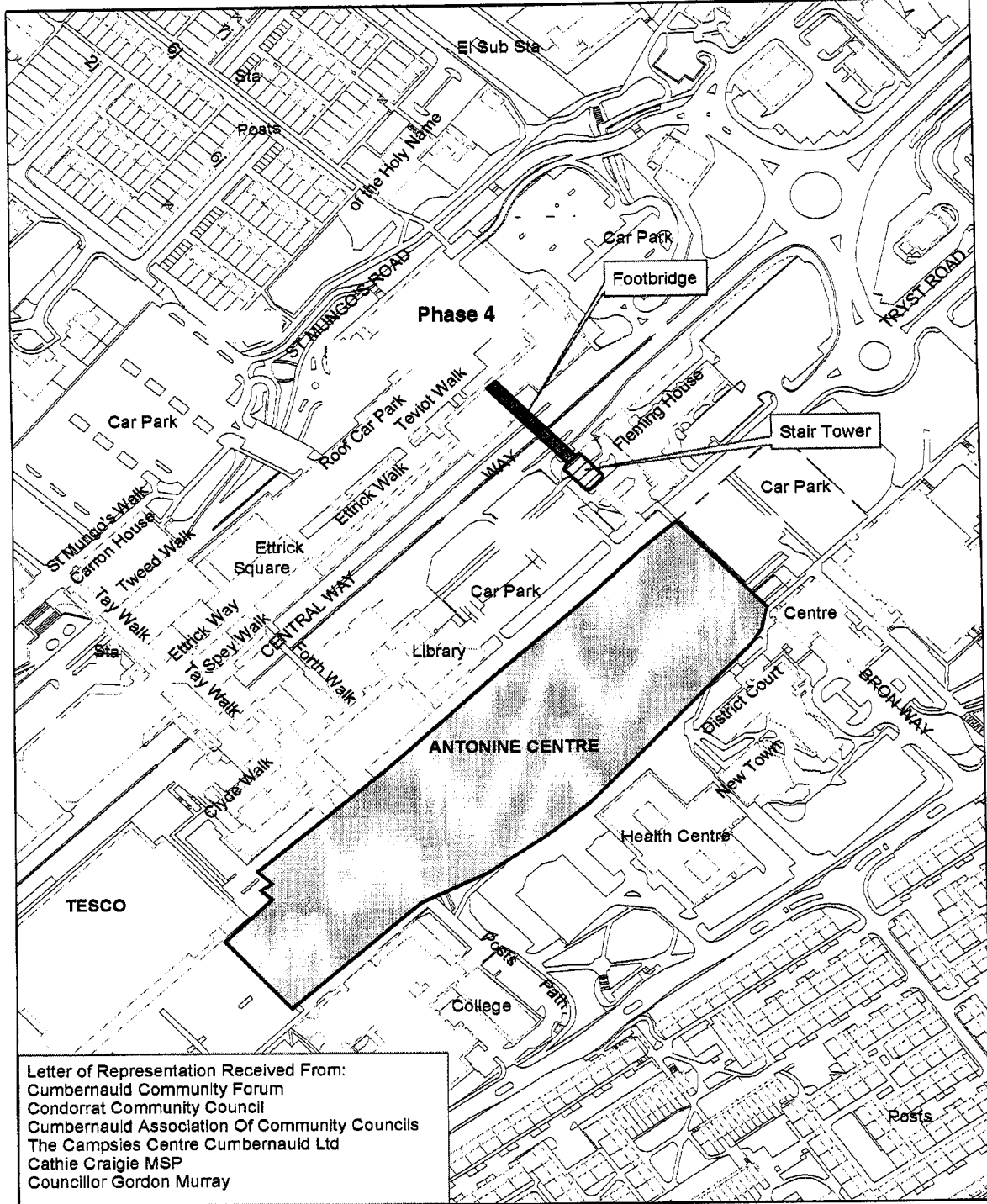


Application No: N/06/02085/FUL
Date Registered: 20th December 2006
Applicant: London & Regional Properties Ltd
C/o New Bond Street
London
Agent: Keppie Design
6 Bell's Brae
Edinburgh
Development: Non-compliance with Condition 1 of Planning Consent
N/05/00265/FUL in Respect of the Upgrading of the Stair
Access Tower to the Eastern Pedestrian Bridge Across Central
Way
Location: Antonine Centre
Tryst Road
Town Centre, Cumbernauld
Ward: 60 Carbrain East: Councillor W. Homer
Grid Reference: 275953 674418
File Reference: N/06/02085/FUL
Site History: N/02/01671/FUL : The Antonine Centre – Granted May 2003
N/05/00265/FUL : Non-compliance with Condition 22 of the 2003
Consent in respect of the timescale for the upgrading of the stair
tower – Granted May 2005
Development Plan: Cumbernauld Local Plan 1993 : Town Centre SH - 1,8
Contrary to Development Plan: No
Consultations:
Representations: Five letters of representation received.
Newspaper Advertisement: Not Required

Recommendation: Approve Subject to the Following Condition:-

1. That the upgrading of the existing stair tower, in accordance with Drawing No. MA5_A(00)001-Revision B approved in November 2003, or any alternative upgrading or replacement scheme which may be agreed with the Planning Authority, shall be commenced by 31st December 2007 or other such date as may be agreed in writing with the said Authority.

Reason : In accordance with the terms of Planning Consent N/02/01671/FUL dated 8th May 2003 in the interests of pedestrian movements within and through Cumbernauld Town Centre, but reflecting the uncertainty over the re-opening or replacement of the footbridge over Central Way which is outwith the control of the applicants.



Letter of Representation Received From:
 Cumbernauld Community Forum
 Condorrat Community Council
 Cumbernauld Association Of Community Councils
 The Campsie Centre Cumbernauld Ltd
 Cathie Craigie MSP
 Councillor Gordon Murray

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N/05/02065/FUL
 London & Regional Properties Ltd
 Tryst Road Town Centre Cumbernauld
 Non-Compliance with Condition 1 of Planning Consent N/05/02065/FUL Which
 Requires the Completion of a New Stair and Lift Access to the Eastern Pedestrian
 Bridge Across Central Way

N
 North Lanarkshire Council
 1:2,531

Background Papers:

Application form and plans received 20th December 2006

Memo from Traffic & Transportation Team Leader, Northern – HQ, received 12th February 2007

Letter from Cumbernauld Community Forum, C/o Tom Reilly, Chair, 7 Westray Court, Cumbernauld, G67 1NW received 9th January 2007.

Letter from Condorrat Community Council, 5 Gainburn Crescent, Condorrat, Cumbernauld, G67 4QN received 16th January 2007.

Letter from Cumbernauld Association of Community Councils, Mr. W. Lees, 1 Craigside Court, Cumbernauld received 19th January 2007.

Letter from Keppie Design, 6 Bell's Brae, Edinburgh received 15th January 2007.

Letter from The Campsies Centre Cumbernauld Ltd., Floor 5, Fleming House, 2 Tryst Road, Cumbernauld G67 1JW received 23rd January 2007.

Letter from Cathie Craigie MSP, 6 Market Square, Kilsyth, G65 0AZ received 15th January 2007.

Letter from Councillor Gordon Murray, 29 Birniehill Road, Cumbernauld G68 9DT received 9th January 2007.

Cumbernauld Local Plan 1993

Any person wishing to inspect these documents should contact Mr. McInnes at 01236 616475.

DATE : 6th March 2007

APPLICATION No. N/06/02085/FUL

REPORT

1. Description of Site and Proposal

1.1 This application by London & Regional Properties Ltd. is in respect of the non-compliance with Condition No.1 of Planning Consent N/05/00265/FUL dated May 2005, which requires that :-

"No part of the Antonine Centre shall be occupied until all of the works required in respect of the upgrading of the stair tower (including a lift) have been completed."

1.2 The stair tower lies at the north-eastern end of the Antonine Centre adjacent to Fleming House and gave access to the footbridge over Central Way to Phase 4 of the Town Centre before the bridge was closed over a year ago by The Campsies Centre Cumbernauld Ltd. because of anti-social behaviour and health & safety problems.

1.3 London & Regional Properties Ltd. are unwilling to upgrade the stair tower (incorporating a lift) before May 2007 (the opening date for the Antonine Centre) because of the uncertainties over the future status of the footbridge.

2. Development Plan

2.1 The application site lies within Cumbernauld Town Centre and the proposal under consideration raises no issues in terms of either the Glasgow and the Clyde Valley Joint Structure Plan 2000 or the Cumbernauld Local Plan 1993.

3. Consultations and Representations

3.1 My Traffic & Transportation Section have advised that the stair tower (which must be Disability Discrimination Act compliant) should be upgraded and be available to the public when the bridge has been reopened or replaced.

3.2 Representations have been received from the Cumbernauld Community Forum, the Cumbernauld Association of Community Councils, Condorrat Community Council, Councillor G. Murray and Mrs. C. Craige MSP. The main points raised may be summarised as follows :-

- The non-upgrading of the stair tower will put the cross-town link in jeopardy. This link is vital as a direct connection between the north and south sides of the town.
- In order to provide disabled access from the Antonine Centre to the Phase 4 Mall, it is imperative that the proposed lift is provided in time for the opening date in May 2007.
- The crossing of Central Way at the eastern end of the town centre is currently unacceptable and something must be done by the Council to improve the situation.

Comments :

1. In support of the planning application, the agents representing London and Regional Properties Ltd. (L & R) have stated that it is L & R's understanding that the existing footbridge is to be replaced by The Campsies Centre Cumbernauld Ltd., possibly in partnership with Coal Pension Properties Limited – the owners of Phase 4 of the Town Centre on the north side of Central Way.

2. L & R's agents state that it is their understanding that L & R will be making a financial

contribution towards the replacement of the footbridge and associated stair/lift tower in lieu of not upgrading the existing tower in accordance with the details approved in terms of Planning Consent N/02/01671/FUL.

3. The agents state that a legal agreement between L & R and The Campsies Centre Cumbernauld Ltd. has still to be concluded.
4. In late January, the advisor to The Campsies Centre Cumbernauld Ltd. (CCCL) made the following statements clarifying CCCL's position :-
 - (a) CCCL does intend to replace the footbridge, subject to the consent and approval of the CCCL Board and the other co-owners of the bridge.
 - (b) CCCL and L & R have reached an agreement in principle to facilitate the provision of a financial contribution from L & R and our legal advisors are working on the necessary legal agreement to formalise this.
 - (c) The design work is nearing the stage where a planning application can be made.
 - (d) The timescale for commencement of the works will be dependent on the approvals noted in (a) above, and any statutory consents required.
5. While there is some uncertainty as to when the CCCL Board and Coal Pensions Properties Limited will approve the replacement of the footbridge, when the legal agreement with L & R will be concluded, when works will commence and when the replacement footbridge with its new or upgraded access tower with a lift and stairs will be open to the public, the commitments given by agents and advisors to both L & R and the CCCL, as outlined above, are the best that can be obtained at the present time. What is clear is that the footbridge will not be available to the public before the opening of the Antonine Centre.
6. As far as the third representation point is concerned, the Council's Head of Roads and Transportation is currently promoting a reduction in the speed limit from 50 mph. to 40 mph. on Central Way. However, his transportation consultants (SIAS) have advised that an at-grade surface crossing is not a practicable proposition in light of current and projected traffic levels. The only viable solution is the reopening or replacement of the existing footbridge.

4. Planning Assessment and Conclusions

- 4.1 In terms of Section 25 of the Town & Country Planning (Scotland) Act 1997, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. Since this planning application is for non-compliance with a specific condition on a previous planning permission, the Cumbernauld Local Plan and the Glasgow and the Clyde Valley Joint Structure Plan are not particularly relevant to the Council's determination of the application.
- 4.2 The specific condition in question requires the upgrading of the existing stair tower to incorporate a lift, prior to the opening of the Antonine Centre in May 2007. For the reasons already outlined in this report, L & R do not wish to upgrade the tower until the issues surrounding the replacement of the footbridge, which has been closed since early 2005, have been resolved. In lieu of this request, L & R have indicated that they are prepared to enter into a legally binding financial agreement with CCCL in respect of the upgrading of the tower in association with the replacement of the footbridge over Central Way – the timescale for which is

uncertain and outwith the control of L & R. The Head of Legal Services has advised me that it would not be appropriate for the Council to be party to any legal agreement between L & R and CCCL in respect of the upgrading of the stair tower. He also advised that me that it would not be appropriate for the Council to enter into a separate legal agreement with L & R.

- 4.3 Pedestrian movement across the town centre is still possible notwithstanding the temporary closure of the footbridge, albeit the routes are somewhat convoluted. The situation will improve, however, with the opening of the Antonine Centre.
- 4.4 While the uncertainty over the eventual replacement of the footbridge over Central Way by the Campsies Centre Cumbernauld Ltd. and Coal Pension Properties Limited is most regrettable, having taken all relevant considerations into account it is recommended that planning permission be granted to London & Regional Properties Ltd. in respect of their not having to upgrade the stair tower before the opening of the Antonine Centre. This recommendation is made subject to a condition that the upgrading of the stair tower shall be commenced by 31st December 2007 – or other such date as may be agreed with North Lanarkshire Council as Planning Authority.
- 4.5 If the above recommendation is not accepted by the Planning & Environment Committee and planning permission is refused, then the opening of the Antonine Centre in May 2007 will constitute a breach of Planning Consent N/05/00265/FUL in that the stair tower will not have been upgraded within the appropriate timescale. The Committee will therefore have to consider initiating enforcement action against London & Regional Properties Ltd. in terms of Section 127 of the Town & Country Planning (Scotland) Act 1997.
- 4.6 Notwithstanding my recommendation that permission be granted, the Committee is advised that a request for a site visit and a hearing has been made by the Cumbernauld Community Forum, the Cumbernauld Association of Community Councils and Condorrat Community Council prior to the determination of this planning application by London & Regional Properties Ltd.