Property Bulletin week ending 10 January 2014

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NEWS

Legal & General buys Union Plaza office
A Legal & General Property fund has bought the Union Plaza office block in Aberdeen from a Stewart Milne Group subsidiary for £55m.
The Herald, 10 January 2014

Funds sought for Dumfries and Galloway stations
Dumfries and Galloway Council is planning to apply for government funding to create train stations at Thornhill, Eastriggs, Dunragit/Glenluce and Beattock.
BBC News, 9 January 2014
http://www.bbc.co.uk/news/uk-scotland-south-scotland-25657914

MSPs support Portobello High School
MSPs have voted in favour of a private bill to allow the building of a replacement for Portobello High School in Portobello Park at a preliminary stage debate.
BBC News, 9 January 2014
http://www.bbc.co.uk/news/uk-scotland-edinburgh-east-fife-25666123

Posties Park School rejected
West Dunbartonshire Council’s education committee has rejected plans to build a new £21m school campus on Posties Park in Dumbarton.
The Evening Times, 9 January 2014

Work starts on £23m community centre
Construction of a £23m community centre in Wishaw has started.
The Evening Times, 10 January 2014
http://www.eveningtimes.co.uk/news/work-begins-on-new-23m-community-hub-147796n.23134420

380 homes planned for Monifieth
Taylor Wimpey has submitted a planning application for permission in principle to build 380 homes in Monifieth.
The Courier, 8 January 2014
Crail housing plans approved
A Scottish Government reporter has approved plans to build 48 affordable homes in Crail.
The Courier, 8 January 2014

Three new sites for housing in Wormit
Fife Council is considering three potential development sites in Wormit leading to concerns that Wormit may double in size.
The Courier, 8 January 2014

Culloden homes get go-ahead
A Scottish Government reporter has upheld an appeal by developers against Highland Council’s decision to refuse planning permission to a 16-home development near Culloden battlefield.
The Scotsman, 8 January 2014
http://www.scotsman.com/lifestyle/heritage/battle-over-culloden-housing-development-plan-1-3258554

New cemetery planned for Danderhall
Developers are planning to create a 68-acre cemetery with memorial garden, chapel of rest and new parkland at Danderhall in Edinburgh.
The Evening News, 9 January 2014

£7m Premier Inn and M&S approved for St Andrews
Councillors have approved proposals for a £7m development including a hotel and Marks & Spencer food store at Largo Road in St Andrews.
The Courier, 10 January 2014

Demolition of Abbey Park House causes controversy
Councillors have agreed to the demolition of the category B-listed Abbey Park House in St Andrews due to its state of disrepair.
The Courier, 10 January 2014

Tillyrie turbines rejected
A Scottish Government reporter has refused an appeal of Perth and Kinross Council’s decision to refuse planning permission for three wind turbines at Tillyrie, near Milnathort.
The Courier, 10 January 2014

RBS sells 94 US branches
The Royal Bank of Scotland has sold 94 US branches in a $315m (£192m) deal.
The Herald, 8 January 2014
Ortak shops may be sold
Ortak’s store network may be sold following a failure to find a buyer for the business.
*The Scotsman, 8 January 2014*
http://www.scotsman.com/business/retail/sale-of-ortak-shops-looms-as-no-buyer-found-1-3261422

Home building revival continues
A survey by the Royal Institution of Chartered Surveyors shows that house building is showing continued signs of improvement.
*BBC News, 10 January 2014*
http://www.bbc.co.uk/news/uk-scotland-scotland-business-25678909

House sales in Lothian up by nearly 48%
House sales in the Lothians rose by almost 48% in the last year according to the ESPC House Price Report.
*The Evening News, 9 January 2014*

Persimmon’s Scottish sales rise
Persimmon says its sales for 2013 were more than 29% ahead of those in 2012.
*The Herald, 9 January 2014*

Barratt to build 780 homes in West of Scotland
Barratt Developments has said it will build 780 new homes in the west of Scotland in 2014 following the success of the Help to Buy scheme.
*The Herald, 7 January 2014*

Clyde Gateway devalues assets by £45m
Regeneration agency Clyde Gateway has written down £45m from the value of its land and property assets.
*The Herald, 8 January 2014*

CASES

**William Robin Graham Barr v Stewart Milne Homes Limited, 20 December 2013 – planning appeal and whether Council failed to have regard to planning brief regarding trees**

Inner House case in which Mr Barr appealed a decision of the Outer House refusing his appeal of East Renfrewshire Council’s decision to grant planning permission to Stewart Milne Homes Limited to construct a development in Newton Mearns.

**Background**
Mr Barr lived at Fa’side House which was adjacent to the proposed development and was accessed by a tree lined driveway. The planning brief stated that the development should deliver “protection of the existing tree boulevard along the access to Fa’side House”. Mr Barr argued that the Outer House failed to recognise that, when granting permission for the development, the Council had failed to take account of a key requirement in its own planning brief and thus failed to take account of a material consideration.
**Decision**

The Inner House refused the appeal finding that it was plain from the decision that the judge had correctly identified the legal issue submitted by Mr Barr. It also refused to accept that the Council had failed to have regard to the content of its planning brief. In the Council’s “Report of Handling” there had been express reference to the planning brief and its objectives, including the need to protect the tree boulevard.

In the court’s opinion, Mr Barr’s complaint was, in essence, not that the Council had failed to have regard to the objectives of the planning brief but that they had failed to reach a conclusion that the proposed development would, in a material way, breach the planning objectives. In effect, Mr Barr was arguing that the proximity of the trees to the new development would inevitably lead to the trees requiring to be removed for safety reasons. However, the court found that Mr Barr had failed to show that there was evidence before the Council to support this argument.

In the view of the court, Mr Barr’s criticism of the Council decision related to the merits of the planning decision and to matters on which the Council was entitled to reach a conclusion.

The full judgment is available from Scottish Courts here:
http://www.scotcourts.gov.uk/opinions/2013CSIH113.html

**OFFICIAL PUBLICATIONS**

Managing and working with asbestos
Revised guidance on managing and controlling asbestos.
*The Health and Safety Executive, 6 January 2014*
http://www.hse.gov.uk/pubns/priced/l143.pdf

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