

	Request for review: Non-Determination	Reference no.	P/22/0915
	Application Summary	Date	13 th March 2023

Planning proposal:	Formation of house plot (Planning Permission in Principle)
Location:	103 - 104 Crosswood Terrace Tarbrax West Calder EH55 8XE

Application Type: Permission in principle

Applicant: Mr. Martin Carroll
Location: 103 - 104 Crosswood Terrace
Tarbrax
West Calder
EH55 8XE

Report by: Area Manager (Planning & Building Standards)

Policy

National Planning Framework 4 (Adopted February 2023)

Policy 15 – Local Living and 20 Minute Neighbourhoods

Policy 16 – Quality Homes

South Lanarkshire Local Development Plan 2 (Adopted 2021)

Policy 4 – Green Belt and Rural Area

Policy 5 – Development Management and Placemaking

Policy DM1 - New Development Design

Policy DM3 – Subdivision of Garden Ground

Supplementary Planning Guidance - Residential Design Guide

Consultations

Roads Development Management Team

Environmental Services

Summary of response

Advise that the new vehicle access is not achievable due to visibility splays making it unsafe. Requested that application deferred until site redesigned to utilize existing access point.

No response

Representation(s):

- ▶ 1
- ▶ 0
- ▶ 0

Objection letter
Support letters
Comment letters

Planning Application Analysis and Recommendation

1 Application Summary

- 1.1 The application seeks planning permission in principle for a single residential housing plot on garden ground on the east side of Crosswood Terrace, Tarbrax and is 0.16Ha in area. In addition to landscaping the garden also currently includes a brick garage, a gas cylinder for 103-104 Crosswood Terrace and a disused shed. The garden has existing trees on the north and eastern sides and is bounded by a post and wire fence.
- 1.2 To the north of the site is the retained garden ground of the donor plot and to the south the garden of the neighbouring residential property (102 Crosswood Terrace), which again lies on the west side of the road. To the east is a large area of public open space and a children's play area. This open space, which faces onto the Tarbrax Village Hall on Viewfield Road, forms a focal point of the settlement around which the majority of Tarbrax's buildings are arranged.
- 1.3 The proposed application involves the subdivision of the existing residential garden ground. The northern section with the garage and gas cylinder remains as the residential garden of 103-104 Crosswood Terrace whilst the remainder of the site forms the house plot. To service this new plot, the submitted drawings indicate that a new vehicle access is proposed between the existing access point and the adjacent garden for 102 Crosswood Terrace. As this is a planning permission in principle submission and an indicative building location shown, no details of building design or scale have been submitted.

2 Representation(s)

- 2.1 In response to the carrying out of neighbour notification and the non-notification of neighbour advert, one letter of objection was received on the 12th of November 2022 from the neighbouring resident. Whilst the letter advised that they wished to object to the proposal, no detailed grounds of objection were provided and thus it is not possible to lend significant weight to the objection.

3 Planning History

- 3.1 This garden (albeit with a different plot boundary that utilised the existing access) has previously obtained planning permission in principle in 2006, and detailed permission in 2008.
 - CL/06/0132 – Formation of house plot (Outline)
Approved: 9/5/2006
 - CL/07/0868 – Erection of single storey dwellinghouse (Detailed permission)
Approved: 22/2/2008
- 3.2 The above permissions were both approved under long superseded development plans and involved the use of the entire residential garden (leaving none for the donor property) and utilised the existing vehicle access (rather than creating a second access point). It should be noted that, were such a proposal to be submitted under the current development plan, it would be extremely difficult to support due to the lack of garden ground remaining for the donor house.

- 3.3 Upon submission of the current application in June 2022, the application was then declared invalid on the 7th of July 2022. Specifically, there were outstanding fees to be settled and an accurate site plan showing the dimensions of the house plot and the remaining donor garden was requested. Additions were received on the 11th of July however not all of the invalid points were addressed. Following correspondence between the case officer, the agent and Councillor McClymont the application was finally declared valid on the 5th of September (the date that the drawings first requested in July were eventually submitted).
- 3.4 On the 5th of October 2022, the named agent George Young e-mailed the case officer to query the advert fee requested. The agent also complained that the application had now been in for 5 months (albeit at that point it was only 3 and a half months from receipt and had only been valid for 1 month) and to ask for the name and address of the Council's Chief Executive with view to submitting a complaint about the service received.
- 3.5 On the 6th of October 2022, the case officer emailed the agent back to clarify that the neighbour-notification advert fee was required prior to any application being determined but that it was not a validation requirement. At this time, the case officer also advised the applicant that the current proposal was distinct from previous approvals and that it formed a second access to the plot. He also advised that given the changes in the development plan since 2006-2008, the new application would have to be "fully assessed against current legislation and policy".
- 3.6 On the 9th of November 2022, the case officer carried out their site visit and in mid-December they then sat down with their Team Leaders to discuss the access issues with the site and to seek advice on a way forward. At that internal meeting it was agreed that the case officer would reach out to the applicant/agent in the new year to highlight that the required visibility splays required control over the adjacent garden ground to the south (outwith both the application site and the applicant's ownership) and were likely to be unachievable.
- 3.7 Following a tragic accident at his home on the 15th of January the case officer Steve Boertien very sadly passed away on the 17th of January 2023.
- 3.8 On the 25th of January 2023, all of Steve Boertien's applicants were e-mailed advising that due to unforeseen circumstances the application would have to be re-assigned to another case officer and apologising for the delay in processing whilst a new case officer was identified.
- 3.9 On the 6th of February 2023, the applicant submitted a Request for Review on the basis of non-determination of the application.

4 Assessment and Conclusions

- 4.1 Under Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the South Lanarkshire Local Development Plan 2 (adopted 2021) and National Planning Framework 4 (which was laid before the Scottish Parliament on the 8th of November 2022 and adopted by Scottish Ministers on 13th February 2023). Section 24(3) of the 1997 Act confirms that

if there is an inconsistency between NPF4 policies and a Local Development Plan which was adopted before the 13th February 2023, then the policies in NPF4 prevail.

4.2 Although Tarbrax falls within the rural area, the site itself lies within the settlement boundary of Tarbrax and as such the proposal of residential development is not discouraged by the rural area status. Instead the appropriateness of the site for residential use is determined by Policy 16 of NPF4 and Policy DM3 of the Local Development Plan.

4.3 **Policy 16 – Quality Homes** of NPF4 advises that development proposals for new homes within an existing settlement boundary will be supported where:

- there is an agreed timescale for build-out; and
- the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including local living and 20 minute neighbourhoods.

In this instance, whilst the applicant has not specified a build period at this stage, the time limited nature of Planning Permission in Principle would ensure that there is only a limited timescale for build-out. In terms of the consistency with the spatial strategy and 20 minute neighbourhoods, Tarbrax does not appear to be a settlement which can demonstrate that it achieves the aims of Local Living and 20 minute neighbourhoods as set out in Policy 15 of NPF4, nor are there any details in the plans spatial strategy which would encourage the development.

4.4 **Policy DM3 – Subdivision of Garden Ground** of SLLDP2 advises that the development of a new house in garden ground will only be considered acceptable where it can be demonstrated that it meets certain criteria. Whilst not all of these are applicable to applications for planning permission in principle, the following criteria are those which a proposed in principle house plot should meet:

- Results in a proposed house plot and remaining area of garden ground and plot that are comparable with those in the nearby area;
- Has a proper road frontage of comparable size and form to surrounding curtilages;
- Has a vehicle access of an adequate standard and which will not have adverse implications for traffic safety, and
- The garden space allocated to both the proposed house and existing house should be sufficient for the recreation and amenity needs of the occupants.

4.5 The proposed house plot does not have a comparable road frontage to other properties and does not form an adequate vehicle access point. The required visibility splays to deliver a safe access and egress cannot be achieved due to the garden to the south (which the applicant does not control). The proposed plot also does not appear to be large enough to provide the required garden ground (Council's Residential Design Guide seeks a minimum depth of 10m for new dwellings). The proposed house plot cannot therefore be considered to accord with the requirements of policy DM3.

5 Recommendation

5.1 In view of the above, especially given the view of the Roads Department that the currently proposed plot boundary will not result in a safe access point, it is considered that the principle of a residential dwelling in this location is neither supported by National Planning Framework 4 or the South Lanarkshire Council Local Development Plan 2021. It is

therefore recommended that Planning Permission in Principle be refused, subject to the following reasons.

6 Recommended Reasons for Refusal

1. The proposed housing plot does not meet the criteria for a new home in land not allocated for housing, as set out in Policy 16 of the National Planning Framework 4 (2023).
2. The proposed housing plot does not meet the requirements for subdivision of garden ground set out in Policy DM3 of the South Lanarkshire Local Development Plan 2021 and houses which do not meet these criteria are considered to have a detrimental effect on the visual appearance of the area and upon the amenity of residents.
3. The proposed vehicular access for the housing plot is positioned in a location where it will not be possible to achieve the required visibility splays resulting in an access which will detrimentally impact upon road safety.

Previous references

- ◆ CL/06/0132
- ◆ CL/07/0868

List of background papers

- ▶ Application Form
- ▶ Application Plans
- ▶ National Planning Framework 4 (Adopted February 2023)
- ▶ South Lanarkshire Local Development Plan 2 (Adopted 2021)
- ▶ Neighbour notification letter dated 05.10.2022
- ▶ Correspondence with applicant 06.10.2022

▶ Consultations

Roads Development Management Team

13.01.2023

Environmental Services

▶ Representations

Ashleigh Kerr, Sent Via E-mail

Dated:

15.11.2022

Contact for further information:

If you would like further information on the above report, please contact:

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