



Council Offices, Almada Street,
Hamilton

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/CL/23/001

- ◆ Site address: 103 – 104 Crosswood Terrace, Tarbrax, West Calder, EH55 8XE
- ◆ Application for review by M Carroll as a result of the failure of an appointed officer of South Lanarkshire Council to give a decision (deemed refusal) in respect of planning application P/22/0915
- ◆ Application P/22/0915 for the formation of a house plot (planning permission in principle)
- ◆ Application Drawings:-
 - ◆ 22/06/CL/001
 - ◆ 22/06/PL/001
 - ◆ Location Plan

Decision

The PLRB agreed that planning application P/22/0915 be refused for the reason attached to this decision notice.

Geraldine McCann
Head of Administration and Legal Services

Date of Decision Notice: 22 May 2023

1. Background

- 1.1. This Notice constitutes the formal decision notice of the Planning Local Review Body (PLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2. The above application for planning permission was considered by the PLRB at its meeting on 24 April 2023. The PLRB was attended by Councillors Alex Allison, Gerry Convery (Depute), Mary Donnelly, Gladys Ferguson-Miller, Mark Horsham, Richard Nelson (Chair), Graham Scott.

2. Proposal

- 2.1. The proposal is for the formation of a house plot (planning permission in principle) at 103 – 104 Crosswood Terrace, Tarbrax, West Calder.
- 2.2. The review had been requested as a result of the failure of Planning and Regulatory Services to give a decision on the application (deemed refusal), therefore, the PLRB was required to determine the application.

3. Determining Issues

- 3.1. The determining issues in this review were:-

- ◆ the proposal's compliance with:-
 - ◆ the adopted South Lanarkshire Local Development Plan 2 (SLLDP2)
 - ◆ the National Planning Framework 4 (NPF4) which had been adopted on 13 February 2023 and formed part of the statutory development plan
- ◆ impact on visual amenity

- 3.2. The PLRB established that, in terms of the adopted South Lanarkshire Local Development Plan 2, the site was located within the settlement boundary of Tarbrax. The following policies applied to the application site:-

- ◆ Policy DM3 – Sub-division of Garden Ground

- 3.3. Policy DM3 states that the development of a new house (or houses) within the curtilage of an existing house will only be considered where it can be demonstrated that the proposal complies with the following criteria:-

- ◆ the proposed house(s) is of a scale, massing, design and material sympathetic to the character and pattern of development in the area and does not result in a development that appears cramped, visually obtrusive or is of an appearance which is out of keeping with the established character or is harmful to the amenity of the area
- ◆ the proposed house plot(s) and that remaining to the existing house are comparable with those nearby in terms of size, shape, and amenity and accord with the established pattern of development in the surrounding area
- ◆ the proposed house(s) should have a proper road frontage of comparable size and form to surrounding curtilages unless the proposal reflects the development pattern of the area
- ◆ the proposed vehicular access is of an adequate standard and will not have adverse implications for traffic safety or adversely affect the amenity of adjacent properties by virtue of noise or loss of privacy
- ◆ the garden space allocated to the proposed house(s) and that remaining for the existing house should be sufficient for the recreational and amenity needs of the occupants
- ◆ the proposed development will not cause an unacceptable reduction in privacy to existing houses and will, itself, enjoy a level of privacy comparable with surrounding dwellings
- ◆ the proposed development will not overshadow adjacent properties to a degree which results in a significant loss of amenity for residents or is significantly adversely affected by overshadowing
- ◆ all existing features such as trees, hedges, walls, fences and buildings that contribute to the character of the area should be retained and should not be adversely affected by the development
- ◆ adequate parking for both the proposed and existing house must be provided within the site and must not be harmful to the established character and amenity of the area
- ◆ the proposal must not jeopardise or be prejudicial to any future development proposals in the vicinity

3.4. In terms of the National Planning Framework 4, the following policies applied to the application site:-

- ◆ Policy 16 – Quality Homes

3.5. Policy 16 states that:-

(f) Development proposals for new homes on land not allocated for housing in the local development plan will only be supported in limited circumstances where:-

- i. the proposal is supported by an agreed timescale for build-out; and
- ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;
- iii. and either:-
 - ◆ delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or
 - ◆ the proposal is consistent with policy on rural homes; or
 - ◆ the proposal is for smaller scale opportunities within an existing settlement boundary; or
 - ◆ the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

(g) Householder development proposals will be supported where they:-

- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
- ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

3.6. In considering the case, the PLRB had regard to the applicant's submission that:-

- ◆ an application for the formation of a house plot had been submitted and was acknowledged by a letter dated 6 July 2022
- ◆ the same application for a change of use had been approved in the 1990's
- ◆ despite emails and calls to the planning department, no approval or rejection of the application had been received
- ◆ the application had been with the planning department for 8 months and although an email had been received on 25 January 2023, no action had been taken
- ◆ they now requested that the Planning Local Review Body make a determination on the application

3.7. In reviewing the case, the PLRB considered that it had sufficient information before it to determine the application.

3.8. The PLRB further considered whether there was valid policy justification to support the proposed development at the proposed location and whether it met the criteria contained in Policy 16 of the National Planning Framework 4 and Policy DM3 of the adopted South Lanarkshire Local Development Plan 2.

4. Conclusion

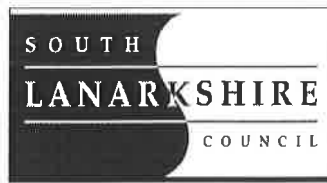
- 4.1. The PLRB considered a request to review planning application P/22/0915 for the formation of a house plot (planning permission in principle) at 103 – 104 Crosswood Terrace, Tarbrax, West Calder. The review had been requested because the application had not been determined (deemed refusal) within the period allowed for determination. The PLRB concluded that there was no valid policy justification to support the formation of a house plot (planning permission in principle) at the proposed location and the proposal would not accord with Policy 16 of the National Planning Framework 4 and Policy DM3 of the adopted South Lanarkshire Local Development Plan 2.
- 4.2. The PLRB, therefore, agreed that planning permission for planning application P/22/0915 be refused for the undernoted reason.

5. Accompanying Notice

- 5.1. Attached is a copy of the Notice to Accompany Refusal, etc in the terms set out in Schedule 2 to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

Formation of a house plot (planning permission in principle) at 103 – 104 Crosswood Terrace, Tarbrax, West Calder

01. There was no valid policy justification to support the proposed development at this site. The proposal would, therefore, be contrary to Policy 16 of the National Planning Framework 4 and Policy DM3 of the adopted South Lanarkshire Local Development Plan 2.



NOTICE TO ACCOMPANY REFUSAL ETC

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.