

SUPPLEMENTARY STATEMENT IN SUPPORT OF
REQUEST TO REVIEW THE REFUSAL
BY SOUTH LANARKSHIRE COUNCIL OF
PLANNING APPLICATION REFERENCE
P/19/0158

3 Abbots Court
Dullatur
G68 0AP



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1.0 INTRODUCTION

- 1.1 This Statement has been prepared by Andrew Bennie Planning Limited on behalf of Mr. Douglas Collins in further support of his request that the Planning Authority, under the provisions of Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 review the decision of the Appointed Person to refuse planning permission in respect of planning application reference P/19/0158.
- 1.2 This Statement provides out response on the terms of the Council's response on the Review submission and also our response on the third party responses on the Review which have been received by the Council.
- 1.3 This Statement should be reads in conjunction with the matters set out within our substantive Review submission.

2.0 COMMENTS ON COUNCIL RESPONSE ON REVIEW SUBMISSION

- 2.1 For ease of reference, the comments set out below are referenced to the numbered paragraphs within the Council's statement to which they relate.

Paragraph 3.1

Reason for Refusal (1)

- 2.2 Whilst noting the Council's stance as regards the fact that in their view, the proposals which are subject to this Review would involve not involve the "*redevelopment of derelict or redundant land of buildings where significant environmental improvement can be shown*", it is clear that in the sense that the Site is no longer required for its original purpose, in this case a railway line, it is by definition "redundant".
- 2.3 Although it is accepted that there may well be a difference of opinion as regards the extent to which the proposed development would secure significant environmental improvements, it is again clear that the current condition and appearance of the Site detracts from the general amenity of the adjacent residential area, this being a point that has been highlighted by objectors to the application which forms the basis of this Review.
- 2.4 On this point, it is stressed that the recent removal of the vegetation on the Site was not undertaken as a precursor to the proposed development of the Site, rather, it was undertaken as a means of assisting Scottish Water in terms of their proposed sewer upgrade works.
- 2.5 It should also be noted that a number of the property owners who bound onto the Site have over the past few years requested various trees to be removed from the Site due to overhanging and safety issue and that these works have always been carried out by the landowner, at his own expense, and that the removal of the trees from the Site has provided a long term solution to the ongoing issues raised by neighbouring proprietors.
- 2.6 On the matter of the "wildlife corridor" value of the Site, it is submitted that the Site benefits from no form of statutory protection, and in this regard it simply has the same status and value as the wider area of countryside which bounds the Site to its east side, and that the applicant was fully within his rights to clear the vegetation from the Site without recourse to any form of prior approval from the Council.

- 2.7 This application requires to be assessed on its merits and in light of the prevailing condition of the Site and it is considered wholly unreasonable for the Council to infer that the proposed development is unacceptable based upon how the Site may have appeared in the past.
- 2.8 On this basis, it is and remains our position that the development of the Site as proposed under this application will secure a significant improvement to the appearance of the Site, all to the benefit of the amenity of the adjacent residential area.

Reason for Refusal (2)

- 2.9 Without prejudice to our substantive submission on the matter of the precedent that the Council has claimed would be established if planning permission were to be granted in respect of the proposed development, it is noted that the Council has previously granted planning permission for a number of residential developments which affect the route of the former railway line which forms the application site, with a number of these previous planning permissions relating to sections of the former railway line which lie to the immediate north of the Site.
- 2.10 Despite the issue of these previous planning permission, the Council has found no difficulty in seeking to refuse the application which forms the basis of this Review, this notwithstanding the clear and obvious precedent which has been established by these earlier planning permissions.
- 2.11 Given the matters set out above, it is considered wholly unreasonable on the part of the Council to cite issues of concern over establishing undesirable precedents, when their own actions clearly demonstrate their ability and willingness to refuse applications notwithstanding the precedent that has been established by earlier planning permissions granted by them.
- 2.12 It is also evident that the Council have also granted planning permission for other residential developments within the village of Ashgill which have had the effect of "rounding off" sections of the settlement boundary and the adjacent countryside.
- 2.13 Again by their actions in respect of the application which forms the basis of this Review, the Council have demonstrated that they are not bound by any notion of precedent established in relation to rounding off development within the village.

- 2.14 In summary, it is self evident that the granting of permission in respect of this application would not make it more difficult for the Council to resist future developments within the Green Belt.

Reason for Refusal (3)

- 2.15 Whilst noting the provisions Policy 17, the terms of which are both laudable and generally supported, it is and remains our position that the terms of this policy cannot be applied equally to all former railway lines and that in order for the policy to be applied fairly and properly, a degree of judgement and balance requires, of necessity, to be applied.
- 2.16 This judgement and balance requires' to address the issue as to whether there is any realistic or reasonable prospect of the railway line in question ever being developed for walking or cycling purposes. In the case of the Site which forms the basis of this Review, by the actions of the Council through the granting of planning permission, for residential development, of those sections of this former railway line which lie to the immediate north of the Site.
- 2.17 Consequently, even in the event of this Review being dismissed, it is physically impossible for this former railway line ever to be reopened for walking/cycling purposes and that in these circumstances it is both unreasonable and unjustifiable for Policy 17 to be cited as a reason for the refusal of the application which forms the basis of this Review.
- 2.18 Finally, on the issue of the extent to which the Site contributes as a "wild life corridor" it is submitted, with respect, that the Council has presented no evidence that the Site ever fulfilled such a function or that in this regard the Site ever exhibited a higher degree of biodiversity value than any land within the surrounding area.
- 2.19 If such statements are to be made by the Council, it is imperative that they are based upon verifiable evidence, which in this case, the Council either does not have or for whatever reason has chosen not to provide in support of their "position" on this matter.

Reason for Refusal (4)

- 2.20 First of all, given the limited size of the Site, it is considered to be unreasonable of the Council to state that the development of the Site would represent a significant intrusion into the Green Belt, this being on the basis that the Site is simply too small to be considered to be significant.

- 2.21 Secondly, on the "rounding off" issue, it is submitted that for a rounding off opportunity to exist, the boundary in question cannot follow a straight or direct route from one point to another, rather, some form of deviation on the routing of the boundary must be present.
- 2.22 In the case of the Site, the Green Belt Boundary to the north of the Site is delineated by the outer (eastern) edge of the former railway line, with this routing deviating to the inner (western) edge of the former railway line as it passes the Site.
- 2.23 It is important to note that the Council realigned the boundary of the Green Belt to the north of the Site from the western to eastern sides of the former railway line to reflect the consequences of planning permission granted by them for the residential development of sections of the former railway line.
- 2.24 These considerations point to the fact that the Site represents a logical opportunity to secure future residential development within the village of Ashgill.
- 2.25 In terms of the Council's comments as regards the ability of the Site to accommodate all of the stated elements of the proposed development, it is submitted that having had preliminary sketch proposals prepared on his behalf, the appellant is fully satisfied that the Site is of sufficient dimensions to accommodate all of said elements.

Reasons for Refusal (5) & (6)

- 2.26 Notwithstanding the Council's stated position on this matter, there is a considerable body of appeal case law which demonstrates that whilst the emerging LDP 2 may well be a material consideration, the weight that can be attached to it is, as we have stated, strictly limited, this being in light of the considerable uncertainties which surround the final terms and provisions of LDP 2, which will be determined in due course through the Examination of the emerging plan.

3.0 COMMENTS ON 3RD PARTY REPRESENTATIONS

3.1 Comment is only offered in respect of a small number of the points raised within the representation which has been submitted by Mrs Jean Smith.

3.2 With regards to the following numbered paragraphs within this representation, comment is offered as follows.

1: Land to the north of the Site, and on the same former railway line have already been developed for residential purposes, this being a fact that Mrs Smith, as a local residents, should be fully aware of.

2: At the express request of Mrs Smith, the appellant has over the years removed a number of trees from the Site and with regards to the recent tree removal, Mrs Smith was advised directly by the appellant that these works would be taking place.

3: None of the wood arising from the tree felling works were sold for monetary gain, rather, this wood was made available at no cost to any local residents who wanted it.

8: An appropriately worded planning condition can control any issues of concern relative to contamination associated with the previous use of the Site.

3.3 In addition to the above noted comments, it is also submitted that the former bridge parapet is not considered to represent any potential for bat roosts (due to the nature of the structure) and Mrs Smith has presented no evidence to support her comments on this matter.