



Council Offices, Almada Street,
Hamilton

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/HM/22/002

- ◆ Site address: Land 120 metres northeast of 55 Bothwell Road, Bothwell Road, Hamilton, ML3 0BB
- ◆ Application for review by S Chaudhary of the decision by an appointed officer of South Lanarkshire Council to refuse planning permission for planning application P/21/0029
- ◆ Application P/21/0029 for the erection of 2 dwelling houses with associated studio flats above attached garage, raised decking at rear and formation of access
- ◆ Application Drawings:-
 - ◆ PP-01 / REV E
 - ◆ PP-02 / REV H
 - ◆ PP-03 / REV A
 - ◆ PP-04 / REV F
 - ◆ PP-05 / REV D
 - ◆ PP-06 / REV B

Decision

The PLRB upholds the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/21/0029 for the reasons detailed in the Council's decision notice dated 24 March 2022.

Geraldine McCann
Head of Administration and Legal Services

Date of Decision Notice: 12/9/22

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 15 August 2022. The PLRB was attended by Councillors Alex Allison, Gerry Convery (Depute), Maureen Devlin, Mary Donnelly, Gladys Ferguson-Miller, Mark Horsham, Lesley McDonald, Richard Nelson (Chair), Norman Rae.

2. Proposal

- 2.1. The proposal is for the erection of 2 dwelling houses with associated studio flats above attached garage, raised decking at rear and formation of access at land 120 metres northeast of 55 Bothwell Road, Bothwell Road, Hamilton.
- 2.2. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.
- 2.3. The PLRB noted that:-
- ◆ a number of representations from parties who had not previously objected to the planning application or whose signatures were unidentifiable had not been included in the submissions as, in terms of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, only an interested party, as defined in Regulation 2, might make representations in respect of a review
 - ◆ the Statement of Observations from the Planning Officer, attached at appendix 6 to the report, stated that the reference to the suggestion for financial investment and a related Section 75 agreement was new information and had not been made available prior to the determination of application P/21/0029. The PLRB considered the advice provided by the Legal Adviser to the PLRB in terms of the Town and Country Planning (Scotland) Act 1997 and Scottish Government Guidance and agreed that the information in relation to a proposed Section 75 agreement could be considered in relation to the review

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)
 - ◆ impact on the amenity of the surrounding area, especially in terms of the woodland covered and protected by a Tree Preservation Order
 - ◆ impact on road safety
- 3.2. The PLRB established that, in terms of the adopted South Lanarkshire Local Development Plan 2, the site was located within a designated urban area and partly within the Green Network. The following policies applied to the application site:-
- ◆ Policy 3 – General Urban Areas and Settlements
 - ◆ Policy 5 – Development Management and Placemaking
 - ◆ Policy 13 – Green Network and Greenspace
 - ◆ Policy DM1 – New Development Design
 - ◆ Policy NHE13 – Forestry and Woodland
 - ◆ Policy NHE14 – Tree Preservation Orders
 - ◆ Policy NHE20 – Biodiversity
- 3.3. Policy 3 states that residential developments on appropriate sites will generally be acceptable. Particular consideration will be given to likely impacts on the amenity of the area. Developments which would be detrimental to the amenity of residents and the wider community or to the character of the surrounding area will not be permitted.
- 3.4. Policy 5 states that, in order to ensure that development takes account of the principles of sustainable development, all proposals require to be well designed and integrated with the local area. Proposals should have no unacceptable significant adverse impacts on the local community and the environment.
- 3.5. Policy 13 states that, where applicable, development proposals should safeguard the Green Network, as identified on the proposals map, and identify opportunities for enhancement and/or extension which can contribute towards:-

- ◆ placemaking
- ◆ mitigating greenhouse gases and adapting to the impacts of climate change
- ◆ supporting biodiversity
- ◆ enhancing health and quality of life
- ◆ providing water management including flood storage and buffer strips
- ◆ development of blue-green networks using existing watercourses
- ◆ improving air quality
- ◆ providing areas for leisure activity
- ◆ providing areas for allotments and community growing areas
- ◆ promoting active travel

3.6. Policy DM1 states that new development will require to promote quality and sustainability in its design and layout and should enhance or make a positive contribution to the character and appearance of the urban or rural environment in which it is located.

3.7. Policy NHE13 states that development proposals should seek to manage, protect and enhance existing ancient semi-natural woodland (ASNW), other woodlands, hedgerows and individual trees. Proposals likely to impact on woodlands, hedgerows or individual trees should be accompanied by a full tree survey and written justification for any losses. Proposals should accord with the Council's Tree Strategy.

In all cases involving the proposed removal of existing woodland, the acceptability of woodland removal and the requirement for compensatory planting will be assessed against the criteria set out in the Scottish Government's Policy on Control of Woodland Removal. Removal for development purposes will only be permitted where it would achieve significant and clearly defined public benefits. Where the woodland proposed to be removed is ASNW, such public benefits should be of national importance. In all cases, developers will generally be expected to deliver compensatory planting.

3.8. Policy NHE14 states that trees and woodlands that are considered to be of significance will be protected from inappropriate development through the enforcement of existing Tree Preservation Orders (TPOs). Any development likely to affect existing protected trees should be accompanied by a full tree survey with written justification for any losses.

3.9 Policy NHE20 states that, in order to further the conservation of biodiversity development, proposals should demonstrate that they have no significant adverse impact on biodiversity, including cumulative impacts. Development proposals likely to lead to significant loss of biodiversity will only be supported if adequate mitigation and offsetting measures are agreed with the Council. Development proposals should consider opportunities to contribute positively to biodiversity, conservation and enhancement, proportionate to the scale and nature of the proposal.

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

- ◆ there was a presumption in favour of development given the site was located on land designated as urban area within the South Lanarkshire Local Development Plan 2
- ◆ the proposals would produce a net environmental gain as the applicant proposed to remove very few trees and those which would be removed would be of lower quality
- ◆ the trees that would remain within the woodland would be mature and of better quality and that proposals had been made for a Woodland Management and Biodiversity Plan to be agreed with the Council
- ◆ an offer had been made to transfer the remaining woodland area to South Lanarkshire Council or a community body, however, given that the practicalities of that could be difficult, it had been proposed that the woodland remain in private ownership and that an associated financial offering could be made to ensure the woodland management and biodiversity improvements were secured via a Section 75 legal agreement
- ◆ the remaining woodland would be protected

- ◆ the loss of a small area of scrub woodland and the introduction of 2 dwelling houses would have a negligible impact on the landscape character of the area and that there was already existing built form within the locale
- ◆ the proposals would have no unacceptable impact on the visual amenity of the wider area due to tree loss
- ◆ the proposals would have no adverse impact on the Green Network and the location of the proposed houses was outwith the Green Network
- ◆ there would be no adverse impact on the future designation of the site as part of a Local Nature Conservation Area and an agreed Woodland Management and Biodiversity Plan would enhance the area
- ◆ the proposal complied with planning policy and was justifiable in planning terms on its own merits and should be granted planning permission
- ◆ the Council's Roads Development Management Team and Environmental Services and Scottish Water had not objected to the proposal
- ◆ the proposal would not adversely affect the integrity, amenity, landscape and conservation value of the woodland in which the application site was located and, therefore, complied with Policy NHE13
- ◆ the proposal would not result in an unacceptable loss of woodland, which was a protected local resource and of high conservation value, and would not likely lead to a permanent net loss of biodiversity and, therefore, complied with Policy NHE20 of SLLDP2
- ◆ the proposal had due regard to the landscape character of the area. It would not have a negative and unacceptable impact on the visual amenity of the wider area primarily as a result of tree loss. It would not have an adverse and irreversible impact on the Green Network and future designation of the site as part of a Local Nature Conservation Area and, therefore, complied with Policy 5 and Policy 13 of SLLDP2
- ◆ there would be no adverse traffic impact
- ◆ an Ecology Report and a Bat Roost Survey had been submitted. The Bat Roost Survey included a Bat Protection Plan that would guide the development process to ensure no harm would come to any roosting bats and would ensure that a firm commitment to appropriate bat roost compensation would be provided before, during, and after development
- ◆ the proposal also complied with the following policies of SLLDP2:-
 - ◆ Policy 1 - Spatial Strategy
 - ◆ Policy 2 - Climate Change
 - ◆ Policy 3 - General Urban Areas and Settlements
 - ◆ Policy 14 - Natural and Historic Environment
 - ◆ Policy 15 - Travel and Transport
 - ◆ Policy 16 - Water Environment and Flooding
 - ◆ Policy NHE14 - Tree Preservation Orders
 - ◆ Policy DM1 - New Development Design

3.11. The PLRB considered the applicant's request that it should undertake a site visit and hold a hearing prior to determining the review case, however, it took the view that neither a site visit nor a hearing was required as it had sufficient information and adequate plans to allow proper consideration of the proposal.

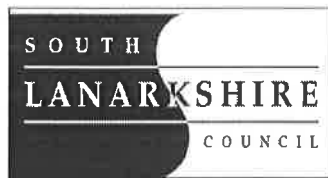
3.12. It further considered that there was no valid policy justification to support the proposed houses at the proposed location within the designated urban area and partly within the Green Network as the proposal would have an adverse impact on the amenity of the surrounding area, would prejudice the integrity of the woodland, would lead to a permanent net loss of biodiversity, did not have due regard to the landscape character of the area, would have a negative and unacceptable impact on the visual amenity of the wider area primarily as a result of tree loss and would have an adverse and irreversible impact on the Green Network and future designation of the site as part of a Local Nature Conservation Area.

4. Conclusion

- 4.1. The PLRB considered a request to review the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/21/0029 for the erection of 2 dwelling houses with associated studio flats above attached garage, raised decking at rear and formation of access at land 120 metres northeast of 55 Bothwell Road, Bothwell Road, Hamilton. The PLRB concluded that there was no valid policy justification to support the proposed dwelling houses at this location and the proposal would not accord with Policies 3, 5, 13, NHE13 and NHE20 of the adopted South Lanarkshire Local Development Plan 2.
- 4.2. The PLRB, therefore, upheld the decision to refuse planning permission for planning application P/21/0029 for the reasons stated on the Council's decision notice dated 24 March 2022.

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.



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.