

Planning Application Ref P/21/0029 - Land Off Bothwell Road, Hamilton

I am formally submitting my objections to the proposed development detailed above.

The history of this site is significant and includes:

- Originally part of William Alexander Louis Stephen, Duke of Hamilton, Brandon & Chatelherault's estate. No development to date & of historical significance to South Lanarkshire Council (SLC) residents. Long standing amenity area for SLC & wider population
- Tree Preservation Order – long standing. Please note some trees may be missing from those listed in application (between 2137A and 2223C)
- Title deed burdens since 1999 protecting the land as 'amenity woodland', as long as Hamilton Park South (HPS) remains residential, including:
 - Woodland shall be managed 'at all times in accordance with generally prevailing principles of good silvicultural practice (the applicants have attempted no maintenance to date, despite having open access from HPS, and submitting planning application for vehicular access for 'maintenance'). HPS residents, however, are heavily invested in the land, paying an annual maintenance cost for part of the applicants' land, and carrying out periodic litter clearing, including fly tipping issues, etc.
 - Woodland shall not be used for any other purpose, other than woodland maintenance & management
 - Woodland shall be protected from 'any form of construction, building development,....or any similar works' etc.
- Oct 2012 ownership transferred to the applicants (without HPS owners' knowledge)
- Previous planning applications by the applicants include:
 - HM11/0257 formation of vehicular access – refused November 2011
 - HM12/0056 formation of vehicular access – refused July 2012
 - HM13/0005 2 detached houses & vehicular access – refused March 2013
 - P/19/0420 formation of vehicular access – refused October 2019NB Some of the above planning decisions were appealed at the highest level
- Lands Tribunal Scotland application made by the applicants January 2016 – request to remove title burdens - challenged by HPS owners' solicitor – burdens remain intact to date
- HPS & Hamilton Park North owners have been striving for many years to preserve and protect this facility for the benefit of SLC residents. This has involved considerable time, manpower, financial expense and effort. The applicants have offered substantial sums of money to HPS owners and Hamilton College, in exchange for access, and nil objection to development. HPS residents have rejected these offers.

My objections are based on the following:-

- (a) **Existing Use** – described in the application as 'vacant land with vegetation' however as noted above, site is designated as Amenity Land for the 40 flats at Hamilton Park South.
The Design Statement notes that the applicant is willing to gift the remaining woodland to owners of Hamilton Park South, however, it should be stressed that there is no agreement of any kind in place, and this could therefore be argued as irrelevant to the application.
- (b) **Right of Way** – The designation of the site as Amenity Land implies that access rights to woodland, in favour of residents of HPS, and the wider public exist, and 'Prescriptive

Servitude' could be applied for to gain permanent access, as the rights have been in existence for over 20 years without interruption. Statutory access rights already exist in favour of the public at large and the site is an established public link between Bothwell Road (Public Park) and Hamilton Race Course, Palace Grounds, Strathclyde Park, and Chatelherault. There are multiple entry points onto the site leading to informal pathways created by regular users, and providing unhindered access to Greenspace, with families, walkers, joggers and dog walkers crossing the site on a daily basis. The site has therefore connected 2 public places for many years.

- (c) **Road Safety** – The existing entrance to Hamilton College forms a busy junction from Bothwell Road – a dual carriageway and main access route into Hamilton- and is extremely congested at peak times throughout the day. Apart from private vehicles, a number of large executive coaches drop off and collect pupils on a daily basis, and are required to manoeuvre the narrow access road. To even contemplate allowing a secondary access from this road, to facilitate residential development, is a serious threat to, and total disregard for the safety of pedestrians (nursery to secondary age pupils and public), vehicles, and other road users, including cyclists.

Although the application states 2 properties, the scale of each of these, with 6 ensuite bedrooms, and a separate studio flat above the garage, creates the potential for ownership levels of between 7 and 14 cars per property, depending on occupancy and age profile of prospective residents. These would contribute to the traffic flow on the access road. Visitor traffic to/from the proposed properties would be in addition to these figures. This does not show any consideration for Road Safety in this location. In addition, local pedestrians utilise the woodland to access Hamilton College, and some pupils have also used this route to/from school, which would pose further risk to life and limb.

I am not aware of any other housing development being accessed from school grounds.

- (d) **No Environmental Statement** has been submitted, however a Survey commissioned by the National Trust for Scotland, and verified by the National Biodiversity Network (Scotland), records that a great variety of birds and wildlife use this site and the surrounding area as their natural habitat. They include Buzzards; Goldfinch and Greenfinch (protected under Wildlife Countryside Act 1981); as well as a wide range of common birds such as Rooks; Robins; Blue Tits; Gulls; Swallows; Owls and Woodpeckers. In addition bats, deer, toads, foxes, squirrels, large birds of prey, wild flowers including wild orchids, butterflies, bees, and other unusual species such as brightly coloured damsel/dragonflies and Green Shield bugs (rare in Scotland) also inhabit this particular site. This list is not exhaustive.

Any development would devastate this rich and diverse eco system.

- (e) **Woodland** – Scotland's woodlands are at serious risk, and now only cover 18% of our landscape (with only 4% classed as Native woodland), compared to 37% in Europe. There is concern not only about tree removal, but infrastructure damage to the root system, if trees are removed. There is strong evidence that trees make a major contribution to the eco system, and bring benefits to local communities including: Improved physical and mental health; Recreational opportunities; Carbon Storage; Cleaner Air; Longer Life Expectancy; Increased property values; and Reduced Stress. Woodlands also provide food and shelter to thousands of plants and animals, and homes for more wildlife than any other terrestrial landscape.

This unspoilt woodland is of particular historical and environmental value to the people of South Lanarkshire, being an undeveloped remnant of the original Duke of Hamilton's estate, and forming part of a unique green corridor between Bothwell Castle/Bridge and Chatelherault. This area has been visited and studied by Scottish university academic staff, over recent years.

- (f) **Climate Change** - The Scottish Government is at the centre of a Climate Change Emergency, and is committed to not only preserving and protecting woodland, but also to increasing tree coverage. The COP26 International Conference event, being held in Glasgow later this year, confirms this acknowledgement of the Climate Emergency, and the fact that we need woodlands now more than ever. The removal of any Greenspace and trees contravenes the Climate Change Agenda, Scottish Government policy, and our individual and corporate responsibilities for the future safety of our planet. A range of actions is needed to best protect our woodlands, and help them adapt to new and dynamic conditions, resulting from the climate crisis. Our climate is already changing. We must all take action to mitigate and help nature adapt to climate change impacts that are now unavoidable.
- (g) **No Flood Risk Assessment (FRA)** has been submitted and the site is designated as Medium Risk on the SEPA Flood Maps. Regular significant local flooding is evident, especially on the eastern area of the site where the proposed new buildings will be located. As neighbours we have a concern re how the developer might reroute the flooding, displaced by any new build, to prevent it encroaching on our land.
- (h) **Zoning** - The site is zoned as 'Green Network' in the South Lanarkshire Local Development Plan Settlement Maps, and not Housing. This application is therefore in direct conflict with the Local Plan, at a time when the preservation of green areas is more vital than ever before.
- (i) **COVID** - During current COVID 19 restrictions the Scottish Government is encouraging people to take exercise outside, and near their homes, to limit transfer of infection. This land is utilised on a daily basis, by the public, to access green space for fresh air and exercise. Any development will prohibit this use. It is also worth noting that, due to COVID restrictions, several owners are stranded abroad or in England, and unable to travel home. This will limit the number of objections being submitted. The COVID pandemic is therefore disadvantaging the process of public consultation/response to this application. The general public who utilise this facility, on a daily basis, etc. will largely, or wholly, be unaware of this application. This is compounded by the fact that locals are prevented from meeting, and some organisations and bodies have not been accessible, due to the ongoing COVID lock down, and a cyber attack.
- (j) **Overlooking/ Loss of Privacy** - Although the proposed development is Low Density, the North facing gable wall of the house, adjacent to Hamilton Park South development, would be in close proximity to the dividing fence at Hamilton Park South, and only a further 1½ metres from the Hamilton Park South building. This proposed gable incorporates 1 window and 2 sets of Double Patio Doors at ground level, and 3 windows and a balcony at first floor level. All of these windows will directly face onto the gable of the 8 flats in Hamilton Park South, which have large floor to ceiling windows.

The new development will therefore result in overlooking, and a loss of privacy, for the 8 flats looking directly onto the proposed development. It will also result in a loss of light and overshadowing, especially for the flats on the lower levels. The loss of sunlight (internal and external) for residents is of particular concern, e.g. as some residents are in the shielding category, and there is a recognised health issue re vitamin D deficiency in the Scottish population. Noise pollution, light pollution and air pollution (cars, etc.) would also adversely impact Hamilton Park South residents, and beyond.

(k) **Confusing Information** – There appears to be evidence of ongoing confusing information. Examples include the following:

- Previous planning application information, e.g. requesting vehicular access for 'maintenance', when free, unhindered access for maintenance has always existed, and the applicant has attempted no maintenance to date
- Title burdens state woodland shall be 'managed at all times.....' and no maintenance attempted by the applicant, to date
- Title burdens state woodland shall be protected from any form of building or construction, etc., and ongoing repeated attempts to develop the site
- Previous tree survey(s) submitted to SLC, by the applicant, detailed numerous actions required to address the absence of maintenance, including some urgent works. No attempt has been made to address these works, to date
- Application refers to 8 parking spaces, however, it is proving difficult to locate these on the plan, and there is no indication of the impact these would have on the woodland
- Application refers to 2 detached dwellings, however, 2 studio flats also appear to be part of the plan
- Application does not appear to include landscaping, and there is no indication of the impact this would have on the woodland
- Application does not appear to include information re the placement or impact of plant, on the amenity area, during proposed construction
- Design Statement asserts the applicant is prepared to gift remaining areas to HPS residents, however, there is no agreement in place, and no guarantee this would be the case in the future
- Design Statement asserts the area is 'local amenity' however, seeks to destroy part of this by development
- Design Statement asserts the area is 'Green Network', however the application seeks to develop, in contrast to Scottish Government policy, and Central Scotland Green Network being one of only 14 National Developments vital to Government (crucial protection & development of green networks)
- Design Statement asserts the 'proposed development area of full ownership is approximately 16% of the site. 84% of the site area will therefore be retained as managed woodland':
 - i. This indicates only 16% of woodland would be destroyed. As the site includes a significant area of scrubland, considerably more than 16% of woodland would be destroyed
 - ii. Consequently, the remaining woodland would be substantially less than 84%
 - iii. 'retained as managed woodland' infers the woodland is currently being managed, however, this has not happened since the applicant took ownership of the site

- iv. 'retained as managed woodland' - there appear to be no details re how, when, how frequently, and by whom the woodland areas would be managed
- v. 'retained as managed woodland' – the plans indicate the area would be split into 3 separate parts, thereby fragmenting the woodland, so that it ceases to be one natural/woodland entity. This disintegration would have a devastating impact on nature, biodiversity, and ecosystems, and the amenity area would cease to exist
- Design Statement asserts 'there will be some small loss of woodland but the proposal to properly manage the remaining 84% of the wooded area will have a net beneficial impact on the locus':
 - i. The loss of woodland will not be 'small', if the accurate calculations are applied – see above
 - ii. The title burdens legally require the woodland to be 'properly' managed. As this has not been attempted by the applicant, there is no evidence to suggest the woodland would be properly managed henceforth
 - iii. 84% figure appears to be misleading – see above
 - iv. A loss of woodland, and disintegration of the remaining woodland, and amenity area, appears to be at direct odds with 'net beneficial impact'
- Design Statement asserts 'issues of local residential amenity, biodiversity and local habitats and road safety for both pedestrians and vehicles are all addressed'. As stated, this plan would have devastating outcomes for the amenity area, biodiversity and local habitats, and raises new issues of road safety
- Design Statement asserts the plan would 'avert measured change to the woodland habitat'. The woodland habitat would cease to exist in its current form, and be permanently decimated by the development and fragmentation proposed
- Design Statement asserts a hope that this 'balanced approach allowing for new residential development alongside the enhancement and protection of existing amenity spaces will be considered favourably':
 - i. Protection is already in place, via the title deed burdens, however, this has not been referenced by the applicant
 - ii. There appears to be a lack of evidence for any 'enhancement' or 'protection' of this area. In contrast, the plan seeks to destroy parts, and fragment others. This plan would consequently result in permanent loss and devastation for this valuable amenity area, which forms part of South Lanarkshire's natural heritage.

I would like to express my sincerest thanks, to South Lanarkshire Council, for considering this submission.

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