

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/CL/22/003

- ◆ Site address: Land 475 metres southeast of Cobblehaugh Farm Cottage, Cobblehaugh Road, Lanark, ML11 8SG
- ◆ Application for review by the Firm of Thomas Orr of the decision by an appointed officer of South Lanarkshire Council to refuse planning permission for planning application P/21/1210
- ◆ Application P/21/1210 for the erection of an agricultural workers' dwelling house (permission in principle)
- ◆ Application Drawings:-
 - ◆ L(--)018
 - ◆ L(--)001 (F)
 - ◆ L(--)005 (E)
 - ◆ L(--)005 (F)
 - ◆ L(--)001 (D)

Decision

The PLRB reverses the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/21/1210 and grants planning permission subject to the conditions attached to this decision notice.



 **Geraldine McCann**
Head of Administration and Legal Services

Date of Decision Notice: 7 November 2022

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 10 October 2022. The PLRB was attended by Councillors Mary Donnelly, Grant Ferguson, Mark Horsham, Ross Lambie, Lesley McDonald, Richard Nelson (Chair), Norman Rae and Graham Scott.

2. Proposal

- 2.1. The proposal is for the erection of an agricultural workers' dwelling house (permission in principle) at land 475 metres southeast of Cobblehaugh Farm Cottage, Cobblehaugh Road, Lanark.
- 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:-
- ♦ comments provided to the Planning Officer by the Council's Economic Development Team had been included in the submissions to the PLRB, however, in terms of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the Economic Development Team was not an interested party and, therefore, had not been invited to submit further representations to the PLRB
 - ♦ the Statement of Observations from the Planning Officer, attached at Appendix 6 to the report, stated that the letter received from SAC Consulting, attached at appendices 5 and 7 to the report, was new information and had not been made available prior to the determination of application P/21/1210. 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 from SAC Consulting could be considered in relation to the review
 - ♦ a submission from J Russell, who had submitted an earlier representation in the name of his company, D and M Russell, had been received late in terms of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. The submission was tabled and 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 agreed that the late submission from J Russell 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 designated rural area and special landscape area
- 3.2. The PLRB established that, in terms of the adopted South Lanarkshire Local Development Plan 2, the site was located within a designated rural area. The following policies applied to the application site:-
- ♦ Policy 4 – Green Belt and Rural Area
 - ♦ Policy 14 – Natural and Historic Environment
 - ♦ Policy GBRA1 – Rural Design and Development
 - ♦ Policy GBRA10 – Accommodation Associated with an Existing or Proposed Rural Business
- 3.3. Policy 4 states that the purpose of the green belt is to:-
- ♦ direct development to the most appropriate locations and support regeneration
 - ♦ protect and enhance the character, landscape setting and identity of the settlement
 - ♦ protect and provide access to open space

Development in the green belt will be strictly controlled and any proposals should accord with the appropriate uses set out in Scottish Planning Policy (SPP).

The green belt functions primarily for agriculture, forestry, recreation and other uses appropriate to the countryside. Development which does not require to locate in the countryside will be expected to be accommodated within the settlements identified on the proposals map. Isolated and sporadic development will not be supported.

- 3.4. Policy 14 states that the Council will assess all development proposals in terms of their impact on the natural and historic environment, including biodiversity, geodiversity, landscape and townscape.

The Council will seek to protect important natural and historic sites and features from adverse impacts resulting from development, including cumulative impacts.

- 3.5. Policy GBRA1 states that within the green belt and rural area all proposed developments will require to adhere to the following criteria:-

- ◆ developments shall be sited in a manner that respects existing built form, land form and local landscape character and setting
- ◆ proposed developments shall be well related to locally traditional patterns of scale and shall avoid the introduction of suburban-style developments into the rural environment. Proposals specifically for residential development should not be isolated or sporadic
- ◆ proposals shall be of a high quality, of either traditional or contemporary innovative design which interprets and adapts traditional principles and features
- ◆ proposals shall make use of appropriate materials which respect and reinforce local character and identity
- ◆ developments shall have no unacceptable adverse impacts on existing residential amenity, particularly in terms of overlooking or overshadowing of existing residential properties
- ◆ proposals relating to residential development, including extensions and alterations, shall conform to the requirements of the Council's Residential Design Guide and, in particular, shall ensure the provision of appropriate private amenity space to all existing and proposed residential properties
- ◆ development proposals shall incorporate suitable boundary treatment and landscaping proposals to minimise the visual impact of the development on the surrounding landscape. Existing trees, woodland and boundary features such as beech and hawthorn hedgerows and stone dykes, shall be retained on site. A landscape framework shall be provided, where appropriate, to demonstrate how the development would fit into the landscape and improve the overall appearance of the site

- 3.6. Policy GBRA10 states that within the green belt and rural area the provision of a dwelling house or temporary accommodation may be considered in association with a rural business. Proposals will be required to meet the following criteria:-

A - All Proposals

1. The applicant should first consider whether there are traditional buildings suitable for conversion, redundant buildings, gap sites or opportunities to consolidate a building group within the land available to them.
2. The business proposal shall comply with Policy GBRA2.
3. It is demonstrated that accommodation is essential for the successful management of the business.
4. It is demonstrated that the business (new, relocating or established) is based upon a robust market assessment, planned on a sound financial basis and the business will become viable in the long term.
5. The submission of a 5 year business plan will be required to demonstrate compliance with criteria 3 and 4.
6. The accommodation shall meet rural design policy as set out in Policy GBRA1 and in supporting planning guidance.

B - Established Businesses

For established businesses a permanent dwelling shall be considered subject to the following criteria:-

1. Evidence is provided to demonstrate the business has been trading at the proposed location for at least 2 years. For businesses relocating from an existing countryside location, the submitted business plan shall demonstrate why the relocation is required and that the business would continue to be profitable.
2. If the proposed dwellinghouse is located in an isolated position and the business use is the only justification for this siting, an occupancy condition will normally be attached to any permission granted.
3. The new dwelling shall be commensurate with the functional requirement of the business.

C - Proposed Businesses

For businesses which are proposed or cannot yet demonstrate profitability for the preceding 2 years, temporary accommodation shall be considered subject to the following criteria:-

1. For the first two years only temporary accommodation will be permitted.
2. After 2 years if it can be demonstrated that the business is currently profitable and projected to remain so for a further 2 years, then a proposal for a permanent dwelling shall be considered. This should comply with the above criteria for established businesses. If it cannot be demonstrated that the business is currently profitable, then an extension to the time period for the temporary accommodation shall be considered. This will be subject to submission of a revised business plan which shows that the business can become viable.

The Council will require the removal of any temporary accommodation where the business has failed to develop successfully or within 6 weeks of either the:-

- ◆ expiry of the permission
- ◆ occupation of any subsequent permanent dwelling granted permission

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

- ◆ the Firm of Thomas Orr has been operating a very profitable mixed use agricultural enterprise from the lands at Charleston Park Farm since 1952 (70 years)
- ◆ there is no reason to suggest that it will not continue to so operate in the future provided appropriate accommodation and facilities are in place to allow for succession to the next generation
- ◆ the activities presently undertaken in association with the established mixed farming business generates, in their opinion, a labour requirement for 6.99 persons
- ◆ they will be relocating the sheep farming element of the overall enterprise to the eastern side of the farm within agricultural buildings separately approved by the Council under the terms of prior approval reference number P/21/1320
- ◆ it is essential from the perspectives of animal husbandry and security that an additional dwelling house is erected in close proximity to the agricultural buildings referred to. The suggestion made by the Planning Officer that the dwelling house should be located some 1km to the west next to the existing complex of buildings on the farm is wholly impractical and would not be fit or appropriate for its intended use and purpose in such a location
- ◆ the site for which planning permission is being sought for the erection of the dwelling house was previously occupied by Hyndford Mill Cottage (now in ruins) and is, therefore, brownfield in nature; it already has the benefit of prior approval for the erection of an agricultural building granted under the terms of prior approval reference number P/20/0620; and it lies in close proximity to the agricultural buildings separately approved by the Council under the terms of prior approval reference number

P/21/1320. It would not, as a consequence, appear sporadic or isolated and it would not have an adverse effect on the character or appearance of the landscape within which it is proposed

- ♦ the erection of a dwelling house would, in their opinion, significantly improve the character and appearance of the site in a manner supported by Policy GBRA7 in the Council's Supplementary Guidance on the Green Belt and Rural Area
- ♦ the Draft National Planning Framework recently published by the Scottish Government states, inter-alia, that new homes in rural areas outwith existing rural settlements should be supported, where the proposal:-
 - ♦ is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business), to live permanently at or near their place of work; or
 - ♦ is a single home for the retirement succession of a viable farm holding; or
 - ♦ would involve the subdivision of an existing residential dwelling; or
 - ♦ would represent the appropriate use of a cultural heritage asset or would be appropriate enabling development to secure the future of historic environment assets; or
 - ♦ would reuse redundant or disused buildings or reinstate a former dwelling house; or
 - ♦ involves redevelopment of derelict land or a brownfield site where a return to a natural state is not likely
- ♦ the proposal meets 4 of the above 6 tests and very comfortably complies with emerging national planning policy
- ♦ they do not accept the reasons outlined in the decision notice for the refusal of the application and respectfully request that the PLRB uphold the review and grant planning permission for the erection of the dwelling house applied for

3.8. In reviewing the case, the PLRB considered that it had sufficient information and adequate plans to allow proper consideration of the proposal. The PLRB was not unanimous on this matter, a motion that a site visit be carried out as part of the review, having been defeated by 6 votes to 2.

3.9. It further considered that there was adequate justification in terms of Policies 4, 14, GBRA1 and GBRA10 of the adopted SLLDP2 for the application to be granted on the grounds that it considered that the proposed development was an appropriate type of development in terms of land use.

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/21/1210 for the erection of an agricultural workers' dwelling house (permission in principle) at land 475 metres southeast of Cobblehaugh Farm Cottage, Cobblehaugh Road, Lanark. The PLRB concluded that there was adequate justification in terms of Policies 4, 14, GBRA1 and GBRA10 of the adopted South Lanarkshire Local Development Plan 2, as it considered that the proposed development was an appropriate type of development in terms of land use, and that planning consent for the proposal could be granted, subject to specified conditions.

4.2. The PLRB, therefore, reversed the decision to refuse planning permission and granted planning permission for planning application P/21/1210 subject to the undernoted conditions.

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.

Conditions and Reasons

Erection of an Agricultural Workers' Dwelling House (Permission in Principle) at Land 475 Metres Southeast of Cobblehaugh Farm Cottage, Cobblehaugh Road, Lanark

1. The development to which this permission in principle relates shall be begun no later than the expiration of five years beginning with the date of grant of this permission.

Reason: To comply with section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Five years is the default period set by Section 59 and there is no material reason indicating that a different period should be set.

2. Prior to the commencement of development on site, a further application(s) for the approval of any of the matters specified in this condition must be submitted to and approved by the Council as Planning Authority, in accordance with the five year timescale as set out in condition 1, above.

These matters are as follows:-

- (a) the layout of the site, including all roads, footways, parking areas (including number and size of parking spaces) and garden ground
- (b) the siting, design and external appearance of all building(s) and any other structures, including plans and elevations showing their dimensions and type and colour of external materials
- (c) detailed cross-sections of existing and proposed ground levels, details of underbuilding and finished floor levels in relation to a fixed datum, preferably ordnance datum
- (d) the design and location of all boundary treatments including walls and fences
- (e) the landscaping proposals for the site, including details of existing trees and other planting to be retained together with proposals for new planting specifying number, size and species of all trees and shrubs, including, where appropriate, the planting of fruit/apple trees
- (f) the means of drainage and sewage disposal
- (g) details of facilities for the storage of refuse within the proposed development, including the design, location and access for uplift

Reason: To comply with section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

3. That the occupation of the dwellinghouse authorised by this permission shall be limited to a person solely or mainly employed or last employed in agriculture as defined in Section 277 of the Town and Country Planning (Scotland) Act 1997, on Charleston Park Farm; or a dependant of such a person residing with him or her or the widow or widower of such a person.

Reason: To safeguard the amenity of the area.

4. That, notwithstanding the terms of Condition 1 above, the design and siting of any dwellinghouse on the site shall take due cognisance of the rural location, with particular regard being paid to scale, massing, roof pitch, fenestration and materials.

Reason: In the interests of amenity and to ensure satisfactory integration of the new dwellinghouses with the rural location in which they are to be situated.

5. That no consent is hereby granted for the indicative house footprint shown on the drawings titled Location Plan Rev. F, Indicative Site Plan Rev. E and Indicative Site Plan Rev. F.

Reason: Permission is granted in principle only and no approval is given for these details.

6. That before any work starts on site, the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In the interests of cultural heritage.

7. That, before the development hereby approved is completed or brought into use, details, including construction specifications, of passing places along Cobblehaugh Road from the junction with the A70 to the site, shall be submitted for the written approval of the Council, as Planning Authority. Once approved, the passing places shall be constructed and maintained as such for the lifetime of the development, hereby approved. FOR AVOIDANCE OF DOUBT, the indicative locations of passing places as shown on drawing L(--)-019(C) are considered acceptable in principle.

Reason: In the interests of road safety.

8. That, unless otherwise agreed in writing and prior to works commencing on site, the applicant shall submit details to demonstrate that the new dwelling will be fitted with an electric vehicle charging (EVC) point. Thereafter, the agreed EVC provision shall be installed, commissioned, and maintained in accordance with the approved plans and specifications prior to that property which it serves being occupied.

Reason: To ensure the provision of appropriate facilities for the dwelling.

9. Prior to commencement of the development hereby approved, details of measures to facilitate the provision of full fibre broadband to serve the dwelling, including details of appropriate digital infrastructure and a timescale for implementation, shall be submitted to and approved in writing by the Council as Planning Authority, unless otherwise agreed in writing with the applicant. The approved measures shall thereafter be carried out in accordance with the agreed implementation timescale.

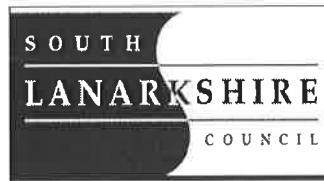
Reason: To ensure the provision of digital infrastructure to serve the development

10. That details of surface water drainage arrangements should be submitted to the Council as Planning Authority as part of the further submission for this site; such drainage arrangements will require to comply with the principles of sustainable urban drainage systems and with the Council's Sustainable Drainage Design Criteria and shall include a flood risk assessment of the site and signed appendices as required. Thereafter, the development shall not be occupied until the surface drainage works have been completed in accordance with the details submitted to and approved by the Council as Planning Authority.

Reason: To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.

11. That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any such order revoking or re-enacting that order), no buildings, structures or fences other than those approved under Condition 2 above; shall be erected within the application site; without the submission of a further planning application to the Council as Planning Authority.

Reason: In the interests of maintaining planning control of the site



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.