



Council Offices, Almada Street
Hamilton, ML3 0AA

Friday, 25 August 2023

Dear Councillor

Planning Local Review Body

The Members listed below are requested to attend a meeting of the above Committee to be held as follows:-

Date: Monday, 04 September 2023
Time: 10:30
Venue: Hybrid - Committee Room 1, Council Offices, Almada Street, Hamilton, ML3 0AA

The business to be considered at the meeting is listed overleaf.

Yours sincerely

Cleland Sneddon
Chief Executive

Members

Richard Nelson (Chair), Gerry Convery (Depute Chair), Alex Allison, Colin Dewar, Gladys Ferguson-Miller, Elise Frame, Mark Horsham, Lesley McDonald, Norman Rae, Graham Scott

Substitutes

Robert Brown, Maureen Devlin, Grant Ferguson, Alistair Fulton, Graeme Horne, Ross Lambie, Monique McAdams, Ian McAllan, Kenny McCreary, Davie McLachlan

BUSINESS

1 Declaration of Interests

- 2 Minutes of Previous Meeting** 3 - 8
Minutes of the meeting of the Planning Local Review Body held on 7 August 2023 submitted for approval as a correct record. (Copy attached)

Item(s) for Decision

- 3 Review of Case of P/22/1355 for Change of Use of Agricultural Land to Private Garden Ground** 9 - 12
Report dated 25 August 2023 by the Executive Director (Finance and Corporate Resources). (Copy attached)
- 3a Appendix 1 Planning Application Form** 13 - 26
- 3b Appendix 2 Report of Handling** 27 - 34
- 3c Appendix 3 Site Photographs and Location Plan** 35 - 44
- 3d Appendix 4 Planning Decision Notice and Reasons for Refusal** 45 - 52
- 3e Appendix 5 Notice of Review** 53 - 64
- 3f Appendix 6 Further Representation** 65 - 74
- 3g Appendix 7 Applicant's Comments on Further Representation** 75 - 78

Urgent Business

- 4 Urgent Business**
Any other items of business which the Chair decides are urgent.

For further information, please contact:-

Clerk Name:	Stuart McLeod
Clerk Telephone:	07385 370 117
Clerk Email:	stuart.mcleod@southlanarkshire.gov.uk

PLANNING LOCAL REVIEW BODY (PLRB)

2

Minutes of meeting held via Confero and in Committee Room 1, Council Offices, Almada Street, Hamilton on 7 August 2023

Chair:

Councillor Richard Nelson

Councillors Present

Councillor Alex Allison, Councillor Gerry Convery (Depute), Councillor Maureen Devlin (*substitute for Councillor Graham Scott*), Councillor Gladys Ferguson-Miller, Councillor Mark Horsham, Councillor Lesley McDonald, Councillor Norman Rae

Councillors' Apologies:

Councillor Mary Donnelly, Councillor Graham Scott

Attending

Community and Enterprise Resources

J Wright, Planning Adviser to the Planning Local Review Body

Finance and Corporate Resources

M Cannon, Legal Adviser to the Planning Local Review Body; S Jessup, Administration Assistant; S McLeod, Administration Officer

1 Declaration of Interests

No interests were declared.

2 Minutes of Previous Meeting

The minutes of the meeting of the Planning Local Review Body held on 24 April 2023 were submitted for approval as a correct record.

The Committee decided: that the minutes be approved as a correct record.

3 Review of Case – Application P/22/0281 for Erection of 2-Storey Rear Extension with Associated Alterations and the Formation of a Roof Terrace at 75 Kirk Street, Strathaven

A report dated 28 July 2023 by the Executive Director (Finance and Corporate Resources) was submitted on a request for a review of the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/22/0281 by W Watson for the erection of a 2-storey rear extension with associated alterations and the formation of a roof terrace at 75 Kirk Street, Strathaven.

To assist the PLRB in its review, copies of the following information had been appended to the report:-

- ◆ planning application form
- ◆ report of handling by the planning officer under the Scheme of Delegation
- ◆ site photographs and location plan
- ◆ decision notice

- ◆ notice of review, including applicant's statement of reasons for requiring the review
- ◆ submission from Planning and Regulatory Services following notification of the request for the review of the case

The relevant drawings in relation to the review were available for inspection prior to the meeting of the PLRB.

The PLRB noted that the applicant had requested a site inspection and further written submissions, however, on the basis of the above, the PLRB considered it had sufficient information to allow it to proceed to determine the review. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application taken under review.

In reviewing the case, the PLRB considered:-

- ◆ the information submitted by all parties
- ◆ the relevant policies contained in the adopted South Lanarkshire Local Development Plan 2:-
 - ◆ Policy 5 – Development Management and Placemaking
 - ◆ Policy 14 – Natural and Historic Environment
 - ◆ Policy DM2 – House Extensions and Alterations
 - ◆ Policy NHE6 – Conservation Areas
- ◆ the relevant policy contained in the National Planning Framework 4 which had been adopted on 13 February 2023 and formed part of the statutory development plan:-
 - ◆ Policy 16 – Quality Homes

Following its review of the information and after discussion, the PLRB concluded that there was adequate justification in terms of Policies 5, 14, DM2 and NHE6 of the adopted South Lanarkshire Local Development Plan 2 and Policy 16 of the National Planning Framework 4 for the application to be granted on the grounds that the proposal was not overtly out of character with surrounding properties which also had extensions to their roof spaces. The PLRB then considered appropriate conditions to be attached to the planning consent.

The PLRB decided:

that the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/22/0281 by W Watson for the erection of a 2-storey rear extension with associated alterations and the formation of a roof terrace at 75 Kirk Street, Strathaven be reversed and that planning permission be granted for the proposal subject to the conditions specified by the PLRB, attached as Appendix 1 to this minute.

4 Review of Case – Application P/23/0156 for Erection of New Roof with Increased Ridge Height to Facilitate Second Floor of Accommodation, Installation of Front and Rear Dormers and Erection of Balcony at Sion, 47 Burnblea Street, Hamilton

A report dated 28 July 2023 by the Executive Director (Finance and Corporate Resources) was submitted on a request for a review of the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/23/0156 by J Peek for the erection of a new roof with increased ridge height to facilitate second floor of accommodation, installation of front and rear dormers and erection of a balcony at Sion, 47 Burnblea Street, Hamilton.

To assist the PLRB in its review, copies of the following information had been appended to the report:-

- ◆ planning application form
- ◆ report of handling by the planning officer under the Scheme of Delegation together with representations
- ◆ site photographs and location plan
- ◆ decision notice
- ◆ notice of review, including applicant's statement of reasons for requiring the review
- ◆ submission from Planning and Regulatory Services following notification of the request for the review of the case
- ◆ comments from the applicant on the submission received from Planning and Regulatory Services

The relevant drawings in relation to the review were available for inspection prior to the meeting of the PLRB.

The Legal Adviser advised on the following procedural matters:-

- ◆ the PLRB would normally have the power to uphold, reverse or vary the Planning Authority's decision, however, it was not advisable to uphold the decision in this case as the decision notice contained the following errors:-
 - ◆ no reasons for refusal had been provided
 - ◆ reasons for the decision had referred to Policies 1 and 2 of National Planning Framework 4 in error
- ◆ to uphold the original decision in this case would effectively re-issue the erroneous decision notice
- ◆ given the above, the options available to the PLRB were to reverse the decision by granting the application, with or without conditions, or vary the decision by refusing the application for different reasons to those stated in the original decision notice

The PLRB noted that the applicant had requested a site inspection, however, on the basis of the above, the PLRB considered it had sufficient information to allow it to proceed to determine the review.

In reviewing the case, the PLRB considered:-

- ◆ the information submitted by all parties
- ◆ the relevant policies contained in the adopted South Lanarkshire Local Development Plan 2:-
 - ◆ Policy 3 – General Urban Areas and Settlements
 - ◆ Policy 5 – Development Management and Placemaking
 - ◆ Policy DM2 – House Extensions and Alterations
- ◆ the relevant policy contained in the National Planning Framework 4 which had been adopted on 13 February 2023 and formed part of the statutory development plan:-
 - ◆ Policy 16 – Quality Homes

Following its review of the information and after discussion, the PLRB concluded that there was adequate justification in terms of Policies 3, 5 and DM2 of the adopted South Lanarkshire Local Development Plan 2 and Policy 16 of the National Planning Framework 4 for the application to be granted on the grounds that the proposal would not have a detrimental effect on neighbouring properties or result in a loss of privacy for neighbouring properties. The PLRB then considered appropriate conditions to be attached to the planning consent.

The PLRB decided:

that the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/23/0156 by J Peek for the erection of a new roof with increased ridge height to facilitate second floor of accommodation, installation of front and rear dormers and erection of a balcony at Sion, 47 Burnblea Street, Hamilton be reversed and that planning permission be granted for the proposal subject to the condition specified by the PLRB, attached as Appendix 2 to this minute.

5 Urgent Business

There were no items of urgent business.

Erection of 2 Storey Rear Extension with Associated Alterations and the Formation of a Roof Terrace at 75 Kirk Street, Strathaven

1. The development to which this permission relates shall be begun no later than the expiration of three years beginning with the date of grant of this decision notice.

Reason: To comply with Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. That the 1.8m protective barrier with frosted glazing as shown on drawing number 21070-AA-053 shall be maintained as such for the lifetime of the development, hereby approved.

Reason: In the interests of protecting neighbouring amenity.

Erection of New Roof with Increased Ridge Height to Facilitate Second Floor of Accommodation, Installation of Front and Rear Dormers and Erection of Balcony at Sion, 47 Burnblea Street, Hamilton

1. The development to which this permission relates shall be begun no later than the expiration of three years beginning with the date of grant of this decision notice.

Reason: To comply with Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

Report

3

Report to:	Planning Local Review Body
Date of Meeting:	4 September 2023
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Review of Case – Application P/22/1355
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1. Purpose of Report

1.1. The purpose of the report is to present the information currently available to allow a review of the decision taken by officers, in terms of the Scheme of Delegation, on the following application:-

1.2. *Summary Application Information*

Application Type:	Detailed Planning Permission
Applicant:	S Davies
Proposal:	Change of use of agricultural land to private garden ground
Location:	Ard Taigh, Kilbank Road, Kirkfieldbank, Lanark, ML11 9UH
Council Area/Ward:	2 Clydesdale North

1.3. *Reason for Requesting Review*

<input checked="" type="checkbox"/> Refusal of Application	<input type="checkbox"/> Conditions imposed	<input type="checkbox"/> Failure to give decision (deemed refusal)
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2. Recommendation(s)

2.1. The Planning Local Review Body is asked to:-

- (1) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
 - (a) it proceeds to determine whether the decision taken in respect of the application under review should be upheld, reversed or varied
 - (b) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed
- (2) in the event that further procedure is required to allow it to determine the review, consider:-
 - (a) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided
 - (b) what procedure or combination of procedures are to be followed in determining the review

3. Background

- 3.1. The Council operates a Scheme of Delegation that enables Council officers to determine a range of planning applications without the need for them to be referred to Area Committees or the Planning Committee for a decision.
- 3.2. In terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, where an application for planning permission relates to a proposal that falls within the category of “local development” and has been or could have been determined under the Scheme of Delegation, the applicant is entitled to request that the determination be reviewed by the Planning Local Review Body.

4. Notice of Review – Statement of Reasons for Requiring the Review

- 4.1. In submitting their Notice of Review, the applicant has stated their reasons for requiring a review of the determination in respect of their application. **(Refer Appendix 5)**
- 4.2. The applicant is entitled to state a preference for procedure (or combination of procedures) to be followed and has indicated that their stated preference is as follows:-

<input checked="" type="checkbox"/>	Further written submissions	<input type="checkbox"/>	Site inspection
<input type="checkbox"/>	Hearing session(s)	<input type="checkbox"/>	Assessment of review documents only, with no further procedure

- 4.3. However, members will be aware that it is for the Planning Local Review Body to determine how a case is reviewed.

5. Information Available to Allow Review of Application

- 5.1. Section 43B of the Planning etc (Scotland) Act 2006 restricts the ability of parties to introduce new material at the review stage. The focus of the review should, therefore, be on the material which was before the officer who dealt with the application under the Scheme of Delegation.
- 5.2. The following information is appended to this report to assist the Planning Local Review Body in its review of the decision taken by officers:-
- ◆ Planning Application Form **(Appendix 1)**
 - ◆ Report of Handling by the Planning Officer under the Scheme of Delegation **(Appendix 2)**
 - ◆ Site photographs and location plan **(Appendix 3)**
 - ◆ Decision notice **(Appendix 4)**
 - ◆ Notice of Review including statement of reasons for requiring the review **(Appendix 5)**
- 5.3. Copies of the relevant drawings are available for inspection by contacting Administration and Legal Services prior to the meeting.

6. Notice of Review Consultation Process

- 6.1. 1 further representation was received, a Statement of Observations from the Planning Officer on the applicant's Notice of Review, in the course of the 14 day period from the date on which notification of the request for a review of the case was given. This is attached as **Appendix 6**.
- 6.2 The applicant had the opportunity to comment on the further representation received. Comments from the applicant's agent are contained in the submission attached as **Appendix 7**.

Paul Manning

Executive Director (Finance and Corporate Resources)

25 August 2023

Link(s) to Council Values/Ambitions/Objectives

- ◆ Work with communities and partners to promote high quality, thriving and sustainable communities
- ◆ Accountable, effective, efficient and transparent

Previous References

- ◆ None

List of Background Papers

- ◆ Guide to the Planning Local Review Body

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Stuart McLeod, Administration Officer

Ext: 4815 (Tel: 01698 454815)

E-mail: stuart.mcleod@southlanarkshire.gov.uk

Appendix 1

3a

Planning Application Form

APPLICATION FOR PLANNING PERMISSION ^{3a}

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR	Ref No.	
Forename	STEPHEN PAUL	Forename	
Surname	DAVIES	Surname	
Company Name		Company Name	
Building No./Name		Building No./Name	
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City		Town/City	
Postcode	ML11 9UH	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Postal Address or Location of Proposed Development (please include postcode)			
RD TAISH KILBANK RD NEAR LURFIELD BANK NEAR LAMARK SOUTH LANARKSHIRE ML11 9UH			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission			<input checked="" type="checkbox"/>
Planning Permission in Principle			<input type="checkbox"/>
Further Application*			<input type="checkbox"/>
Application for Approval of Matters Specified in Conditions*			<input type="checkbox"/>
Application for Mineral Works**			<input type="checkbox"/>
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:		Date:	
**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.			

5. Description of the Proposal

Please describe the proposal including any change of use:

THE CURRENT BUILDING PLOT EXTENDS 3 METRES TO THE REAR OF THE PROPERTY. TO MAKE THIS AREA BIG ENOUGH FOR A REAR GARDEN IT WILL NEED TO BE 8 METRES. SO A CHANGE OF USE IS REQUIRED TO 5 METRES OF THE FIELD TO THE WEST FOR THE WIDTH OF THE PLOT. I OWN THE FIELD

Is this a temporary permission?

Yes ☐ No ☒

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes ☒ No ☐

If yes, please state date of completion, or if not completed, the start date:

Date started: 6th SEPTEMBER 2022

Date completed:

If yes, please explain why work has already taken place in advance of making this application

TRIED AND FAILED TO APPLY ONLINE, SO SENT A MAIL REQUESTING THIS APPLICATION FORM BY POST. IT WAS RECEIVED ON FRIDAY 16-9-22 SOME 2 WEEKS LATER.

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes ☒ No ☐

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☒

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☐

Please provide a description of the advice you were given and who you received the advice from:

Name: STUART CONNELLY

Date: 7-9-2022

Ref No.:

E MAIL REPLIED TO WITH HELPFUL ATTACHMENTS AND A PROMISE TO POST THIS APPLICATION FORM.

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

Square Metre (sq.m.):

30W X 5D = 150sq metres

8. Existing Use

Please describe the current or most recent use:

AGRICULTURAL FIELD USED FOR GROWING GRASS FOR HAY OR HAYLAGE TO FEED OUR ALPACAS & MINIATURE DONKEYS

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road?

Yes ☐ No ☒

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes ☐ No ☒

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

NONE

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

NONE

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes ☐ No ☒

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network

☐

No, proposing to make private drainage arrangements

☐

Not applicable – only arrangement for water supply required

☐

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway

☐

Discharge to watercourse(s) (including partial soakaway)

☐

Discharge to coastal waters

☐

Please show more details on your plans and supporting information

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)

☐

Other private drainage arrangement (such as a chemical toilets or composting toilets)

☐

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water?

Yes ☒ No ☐

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network?

Yes ☐ No ☒

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding?

Yes ☐ No ☒

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes ☐ No ☒ Don't Know ☐

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site?

Yes ☒ No ☐

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

4 TREES IN THE AREA, NONE WITH PROTECTION. THEY WILL NOT BE AFFECTED, CUT, OR REMOVED

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling)

Yes ☐ No ☒

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats?

Yes ☐ No ☒

If yes how many units do you propose in total?

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace?

Yes ☐ No ☒

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes ☐ No ☐ Don't Know ☒

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority?

Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes ☐ No ☒

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed ☒

I, the applicant/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants

Yes ☐ No ☐ N/A ☒

Signature:



Name:

MR S P DAVIES

Date:

17-9-2022

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013

CERTIFICATE A, B, C, D OR CERTIFICATE E MUST BE COMPLETED BY ALL APPLICANTS

CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than myself _____ was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application. ☐
- (2) None of the land to which the application relates constitutes or forms part of agricultural land. ☐

Signed: _____

On behalf of: _____

Date: _____

CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have _____ served notice on every person other than myself _____ who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land ☐

or

- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have _____ served notice on every person other than myself _____ who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address	Date of Service of Notice

Signed:

On behalf of:

Date:

CERTIFICATE C

Certificate C is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where it has not been possible to identify ALL or ANY owners/agricultural tenants.

- (1) I have been unable to serve notice on **every** person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. ☐

or

- (2) I have been unable to serve notice on **any** person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was owner of any part of the land to which the application relates. ☐

- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding.

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have been unable to serve notice on any person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. ☐

or

- (5) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address	Date of Service of Notice

- (6) I have _____ taken reasonable steps, as listed below, to ascertain the names and addresses of all other owners or agricultural tenants and have _____ been unable to do so.

Steps taken:

--

Signed:

On behalf of:

Date:

CERTIFICATE D

Certificate D is for use where the application is for mineral development.

- (1) No person other than myself _____ was an owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application. ☐

or

- (2) I have _____ served notice on each of the following persons other than myself _____ who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding. ☐

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have _____ served notice on each of the following persons other than myself _____ who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant. ☐

- (5) Notice of the application as set out below has been published and displayed by public notice ☐

Signed:

On behalf of:

Date:

CERTIFICATE E

Certificate E is required where the applicant is the sole owner of all the land and the land to which the application relates is agricultural land and there are or are not agricultural tenants.

I hereby certify that -

(1) No person other than myself *MRS P DAVIES* was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application. ☒

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are no agricultural tenants. ☒

or

(1) No person other than myself was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application. ☐

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are agricultural tenants. These people are: ☐

Name	Address	Date of Service of Notice

(3) I have taken reasonable steps, as listed below, to ascertain the names and addresses of the other agricultural tenants and have been unable to do so. ☐

Steps taken:

Signed:

On behalf of:

MYSELF S.P. DAVIES

Date:

17-9-2022

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

NOTICE TO OWNERS AND AGRICULTURAL TENANTS

Town and Country Planning (Scotland) Act 1997
Regulation 15 (1) of the Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2013

Name [Note 1]	MR S P DAVIES
Address	ARA TAIGH
	KILBANK RD
	NEAR KILKYLEA BANK, NEAR LANARK
	SOUTH LANARKSHIRE ML11 9UH

Proposed development at [Note 2]	TO THE REAR OF ARA TAIGH (WEST)
	AS ABOVE

Notice is hereby given that an application is being made to

[Note 3]	SOUTH LANARKSHIRE COUNCIL	Council by	MR S P DAVIES
----------	---------------------------	------------	---------------


For planning permission to [Note 4]

CHANGE OF USE FROM FIELD (AGRICULTURAL) TO REAR GARDEN
--

If you wish to obtain further information on the application or to make representations about the application, you should contact the Council at [Note 5]

PLANNING OFFICER (WEST TEAM) SOUTH LANARKSHIRE COUNCIL, MONITORIE HOUSE, KILMILTON ML11 6LB

(The grant of planning permission does not affect owners' rights to retain and dispose of their property unless there is some provision to the contrary in an agreement or lease. The grant of planning permission for non-agricultural development may affect agricultural tenants security of tenure.)

Signed	
On behalf of	MR S P DAVIES
Date	17-9-2022

*Delete where appropriate

[Note 1] – Insert name and address of owner or agricultural tenants

[Note 2] – Insert address or location of proposed development.

[Note 3] – Insert name of planning authority.

[Note 4] – Insert description of proposed development.

[Note 5] – Insert planning authority address.

NOTICE TO OWNERS AND AGRICULTURAL TENANTS

The Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013 (Regulation 15)

NOTES FOR GUIDANCE

Before applying for planning permission or planning permission in principle under regulations 9 to 11, applicants should notify all persons who (other than themselves), were the owners of any of the land to which the application relates, or were agricultural tenants at the beginning of the prescribed period (in effect 21 days ending with the date on which the application was submitted).

Notices to owners and agricultural tenants should be in the form set out in schedule 1 of the regulations and must include:

1. The name of the applicant
2. The address or location of the proposed development
3. A description of the proposed development and
4. The name and address of the planning authority who will determine the application.

The grant of planning permission will not affect the rights of an owner, or tenant under a lease which has at least 7 years to run, to dispose of the consented property unless there is express provision in the lease/Agreement.

Applications for the working and winning of underground minerals

The notification of site owners and agricultural tenants regarding applications for the working and winning of underground minerals may be both onerous and complex. In addition to those owners and agricultural tenants with rights in relation to the relevant surface land, there may be other people with ownership rights to minerals, other than those vested in the Crown (oil, gas, coal, gold and silver), who may be difficult to identify and notify.

For the purposes of these applications, regulation 15(4) amends the requirement to notify owners to relate to those who "to the applicant's knowledge" are owners

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

Appendix 2

3b

Report of Handling

Report dated 17 March 2023 by the Council's Authorised Officer under the Scheme of Delegation

	Delegated Report	Reference no.	P/22/1355
			3b
		Date	

Planning proposal: Change of use of agricultural land to private garden ground.
Location: Ard Taigh, Kilbank Road
Kirkfieldbank. Lanark, ML11 9UH

Application Type : Detailed planning application

Applicant : Mr Stephen Paul Davies
Location : Ard Taigh
Kilbank Road
Kirkfieldbank
Lanark
ML11 9UH

Decision:

Other action/notes: (1)

Report by: Area Manager (Planning & Building Standards)

Policy reference:

South Lanarkshire Local Development Plan 2 (adopted 2021)

Policy 2: Climate Change
Policy 4: Green Belt and Rural Area
Policy 5: Development Management and Placemaking
Policy NHE16: Landscape

National Planning Framework 4 (adopted 2023)

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 17: Rural Homes

Assessment

Impact on privacy?	No
Impact on sunlight/daylight?	No
Impact on amenity?	No
Traffic issues?	No
Adheres to development plan policy?	No
Adverse comments from consultees?	No

Consultations

Summary of response

No Consultations Required

Representation(s):

►	0	Objection letters
►	0	Support letters
►	0	Comment letters

Planning Application Delegated Report

1 Application Summary

- 1.1 The applicant seeks planning permission for the change of use of agricultural land to form a private garden ground at Ard Taigh, Kilbank Road in Kirkfieldbank. The proposed site is located on agricultural adjacent to an existing dwelling approved in 2019 (P/19/0615).

2 Representation(s)

- 2.1 Statutory neighbour notification was undertaken in respect of this application, and no letters of representation has been received because of this publicity. No formal consultations were required to be undertaken in respect of this proposal.

3 Assessment and Conclusions

- 3.1 Under Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the South Lanarkshire Local Development Plan 2 (SLLDP2) (adopted 2021) and National Planning Framework 4 (NPF4) (which was laid before the Scottish Parliament on the 8th of November 2022 and adopted by Scottish Ministers on 13th February 2023). Section 24(3) of the 1997 Act confirms that if there is an inconsistency between NPF4 policies and a Local Development Plan which was adopted before the 13th February 2023, then the policies in NPF4 prevail.
- 3.2 The application site is existing agricultural land located in the rural area and designated as part of a Special Landscape Area within the South Lanarkshire Local Development Plan 2021.
- 3.3 Policy 17 of The National Planning framework states a development proposal for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development:
- i. is on a site allocated for housing within the LDP;
 - ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;
 - iii. reuses a redundant or unused building;
 - iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
 - v. 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;
 - vi. is for a single home for the retirement succession of a viable farm holding;

- vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or
- viii. reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house.

3.4 Policy NHE16 – Landscape advises that development proposals within Special Landscape Areas will only be permitted where they can be accommodated without having an unacceptable significant adverse effect on the landscape character, scenic interest and special qualities and features for which the area has been designated. All proposed development should take into account the detailed guidance contained in the South Lanarkshire Landscape Character Assessment 2010. The site falls within the Rolling Farmland landscape type in the Middle Clyde Valley where landscape planning and management should aim to conserve the open and undeveloped character and profiles of the foothills and the quality of the panoramic views. Built development on the open hillsides should generally be resisted.

3.5 In view of the above, it is concluded that the proposed extension of garden ground into the protected special landscape land within the rural area is inappropriate and does not comply with the requirement of applicable policies within National Planning Framework 4 or the South Lanarkshire Local Development Plan 2. It is therefore recommended that permission is Refused.

4 Reason for decision

4.4 The proposal is contrary to Policies 4, 5 and NHE16 of the South Lanarkshire Local Development Plan 2 (2021) and Policy 17 of the NPF4. In that the change of use from agricultural land to private garden space introduces a level of activity that is detrimental to the amenity of the area and that it would conflict with the land use set out in the SLC2.

Delegating officer: David Russell

Date: 17/3/2023

Previous references

- ◆ None

List of background papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated

- ▶ Consultations

No Consultations required.

- ▶ Representations

Contact for further information

If you would like to inspect the background papers or want further information, please contact:-

Stuart Connolly, Planning officer, Floor 6, Council Offices, Almada Street, Hamilton, ML3 0AA

Phone: 07385516139

Email: stuart.connolly@southlanarkshire.gov.uk

Planning Application

Application number: P/22/1355

Reasons for refusal

01. The proposed change of use is contrary to Policy 17 of National Planning Framework 4 (2023) in that it seeks to use land in the rural area for housing purposes in a location where that site has not been allocated for residential development in the Local Development Plan.
02. The proposal is contrary to Policies 4, 5 and NHE16 of the South Lanarkshire Local Development Plan 2 (2021) in that the proposal would detract from the established character of the surrounding locale and adversely impact upon the established amenity of the area.

Reason(s) for decision

The proposal is contrary to Policies 4, 5 and NHE16 of the South Lanarkshire Local Development Plan 2 (2021) and Policy 17 of the NPF4. In that the change of use from agricultural land to private garden space introduces a level of activity that is detrimental to the amenity of the area and that it would conflict with the land use set out in the SLC2.

Informatives

01. This decision relates to drawing numbers:

Reference	Version No:	Plan Status
Location Plan	A	Refused

Appendix 3

3c

Site photographs and location plan

Photo 1



Photo 2



Photo 3



Photo 4

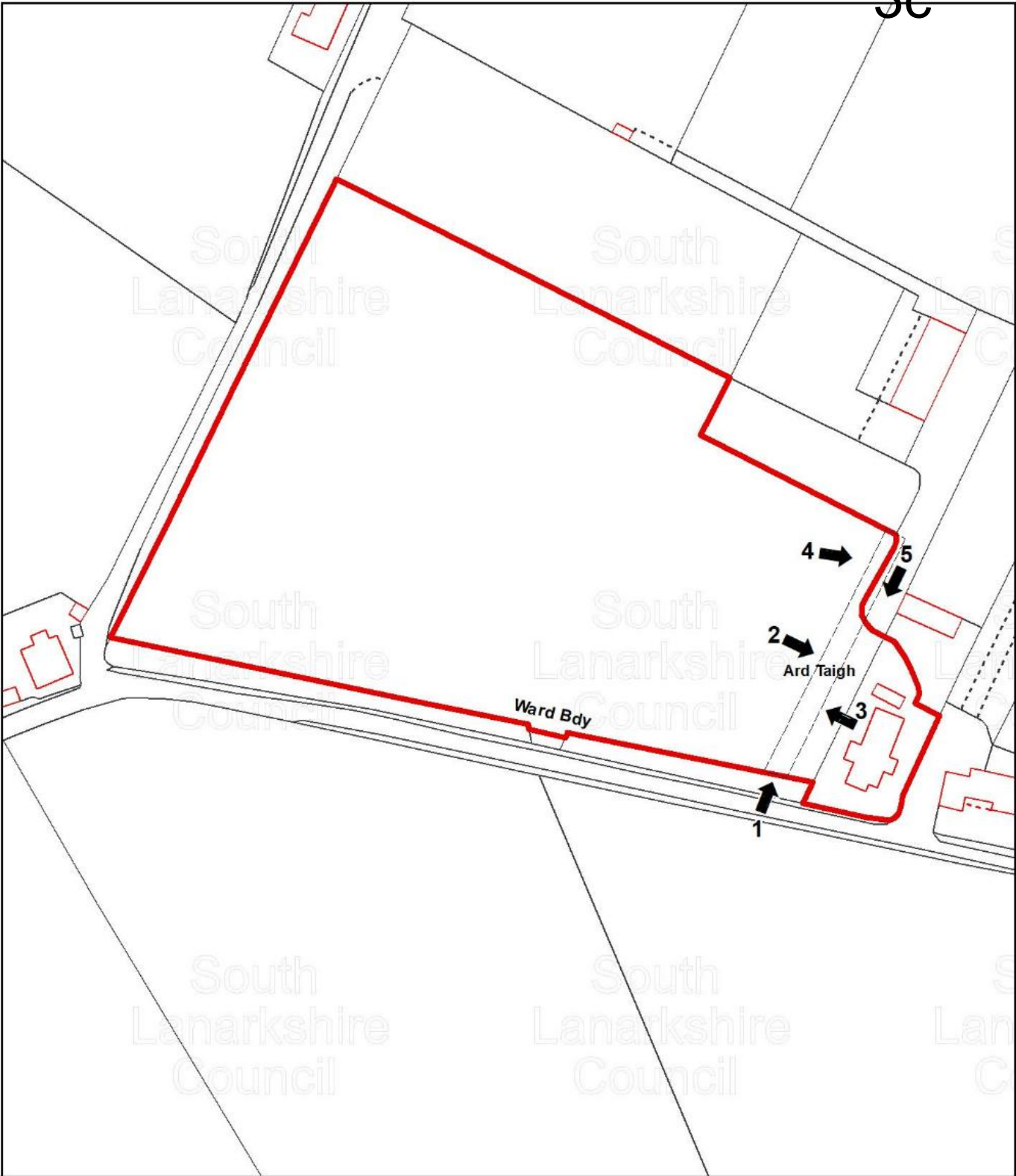


Photo 5



Planning Review for application P/22/1355 Ard Taigh Kirkfieldbank
Change of use of agricultural land to private garden ground

3c



This map indicates from where photographs were taken

-  Application site
-  Photograph viewpoints
-  Settlement Boundary

Community and Enterprise Resources
Planning and Regulatory Services



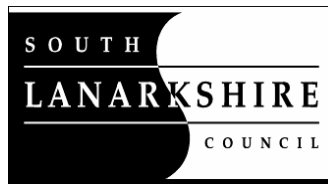
Scale: 1:1,400 Date: July 2023

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Appendix 4

3d

Planning Decision Notice and Reasons for Refusal



3d

Community And Enterprise Resources
Executive Director **David Booth**
Planning And Regulatory Services

Mr Stephen Paul Davies
Ard Taigh
Kilbank Road
Kirkfieldbank
Lanark
ML11 9UH

Our Ref: P/22/1355
Your Ref:
If calling ask for: Stuart Connolly
Date: 24 March 2023

Dear Sir/Madam

Proposal: Change of use of agricultural land to private garden ground.
Site address: Ard Taigh, Kilbank Road, Kirkfieldbank, Lanark, ML11 9UH,
Application no: P/22/1355

I would advise you that the above application was refused by the Council and I enclose the decision notice which sets out the reasons for refusal. Please note that the Council does not issue paper plans with the decision notice. The application is refused in accordance with the plans and any other documentation listed in the reasons for refusal imposed on the accompanying decision notice and which can be viewed using the Council's online planning application search at <https://publicaccess.southlanarkshire.gov.uk/online-applications/>

If you consider that you can overcome the reasons for refusal and that it is not the principle of the development that is unacceptable, you may submit an amended application. If you do amend your proposals and re-apply within one year of this refusal, then you will not have to pay a fee, provided the proposal is of the same character or description as the application which has just been refused.

As your application has been refused, you may appeal against the decision within 3 months of the date of the decision notice. The attached notes explain how you may appeal.

Should you have any enquiries relating to the refusal of your application or a potential amended submission, please contact Stuart Connolly on 07385516139

Yours faithfully

Head of Planning and Regulatory Services

Enc:

Floor 6, Council Offices, Almada Street, Hamilton, ML3 0AA
Email stuart.connolly@southlanarkshire.gov.uk Phone: 07385516139



Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006

To: **Mr Stephen Paul Davies** Per:

**Ard Taigh, Kilbank Road,
Kirkfieldbank, Lanark,
ML11 9UH,**

With reference to your application received on **21.09.2022** for planning permission under the above mentioned Act:

Description of proposed development:

Change of use of agricultural land to private garden ground.

Site location:

Ard Taigh, Kilbank Road, Kirkfieldbank, Lanark, ML11 9UH,

SOUTH LANARKSHIRE COUNCIL in exercise of their powers under the above mentioned Act hereby:

REFUSE PLANNING PERMISSION

for the above development in accordance with the plan(s) specified in this decision notice and the particulars given in the application, for the reason(s) listed overleaf in the paper apart.

Date: 24th March 2023

Head of Planning and Regulatory Services

This permission does not grant any consent for the development that may be required under other legislation, e.g. Building Warrant or Roads Construction Consent.

**South Lanarkshire Council
Community and Enterprise Resources
Planning and Regulatory Services**

South Lanarkshire Council

Refuse planning permission

Paper apart - Application number: P/22/1355

Reason(s) for refusal:

01. The proposed change of use is contrary to Policy 17 of National Planning Framework 4 (2023) in that it seeks to use land in the rural area for housing purposes in a location where that site has not been allocated for residential development in the Local Development Plan.
02. The proposal is contrary to Policies 4, 5 and NHE16 of the South Lanarkshire Local Development Plan 2 (2021) in that the proposal would detract from the established character of the surrounding locale and adversely impact upon the established amenity of the area.

Reason(s) for decision

The proposal is contrary to Policies 4, 5 and NHE16 of the South Lanarkshire Local Development Plan 2 (2021) and Policy 17 of the NPF4 in that the change of use from agricultural land to private garden ground detrimentally impacts upon the special landscape character of the area and that which would conflict with the rural area designation set out in the development plan.

Notes to applicant

Application number: P/22/1355

Important

The following notes do not form a statutory part of this decision notice. However, it is recommended that you study them closely as they contain other relevant information.

01. This decision relates to drawing numbers:

Reference	Version No:	Plan Status
Location Plan	A	Refused



COMMUNITY AND ENTERPRISE RESOURCES

Executive Director **David Booth**

Planning and Economic Development

Important notes

Town and Country Planning (Scotland) Act 1997

1. Compliance with conditions

Under the provisions of the Town and Country Planning (Scotland) Act 1997 (Section 145), failure to comply with any condition(s) imposed on any planning permission may result in the service by the Council of a "Breach of Condition Notice" requiring compliance with the said condition(s).

There is no right of appeal against such a Notice and failure to comply with the terms of the Notice within the specified time limit will constitute a summary offence, liable on summary conviction to a fine not exceeding £1000.

2. Procedure for appeal to the planning authority

- (a) 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 require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997, within three months from the date of this notice. The notice of review should be addressed to:

Executive Director (Corporate Resources)
Council Headquarters
Almada Street
Hamilton
ML3 0AA

To obtain the appropriate forms:

Administrative Services at the above address.

Telephone: 01698 454108

E-mail: pauline.macrae@southlanarkshire.gov.uk

- (b) If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, 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 incapable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Appendix 5

3e

Notice of Review (including Statement of Reasons for Requiring the Review) submitted by applicant S Davies



Notice of Review Form
For official use: NOR/ _ _ / _ _ / _ _
Date received by PLRB: _ _ / _ _ / 3e _ _

Notice of Review

Under Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on local developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

The Town and Country Planning (Appeals) (Scotland) Regulations 2013

This notice requires to be served on the Planning Authority within 3 months of the date of the decision notice or from the date of expiry of the period allowed for determining the application which is set as 2 months following the validation date of the application

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your Notice of Review.

Please complete in BLOCK CAPITALS

Applicant(s)	Agent (if any)
Name: Mr Stephen Davies	Name:
Address: Ard Taigh Kilbank Rd Kirkfieldbank South Lanarkshire	Address:
Postcode: ML11 9UH	Postcode:
Contact Telephone 1: [REDACTED]	Contact Telephone 1:
Contact Telephone 2: [REDACTED]	Contact Telephone 2:
Fax No:	Fax No:
E-mail:* [REDACTED]	E-mail:*

Mark this box to confirm that all contact should be through this representative: ☐

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes	No
x	<input type="checkbox"/>

Application reference number:

P		/	2	2	/	1	3	5	5
---	--	---	---	---	---	---	---	---	---

Site address: Ard Taigh, Kilbank Rd, Kirkfieldbank, South Lanarkshire, ML11 9UH.

Description of proposed development: Change of use of agricultural land to private garden ground.

Validation date of application: Date of decision (if any):

Nature of application

- | | |
|--|-------------------------------------|
| 1. Application for planning permission (including householder application) | <input checked="" type="checkbox"/> |
| 2. Application for planning permission in principle | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions | <input type="checkbox"/> |

Reasons for requesting review

- | | |
|---|-------------------------------------|
| 1. Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

In cases where the Planning Local Review Body considers that it has sufficient information, including the Notice of Review, the decision notice, report of handling and any further representations from interested parties, it may, under Regulation 12, proceed to determine the review. It is anticipated that the majority of cases the Planning Local Review Body deals with will fall into this category.

The Planning Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable it to determine the review. Further information may be required by one or a combination of procedures, such as written submissions, the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Although the Planning Local Review Body will decide on the procedure to be used to determine your review, you can indicate what procedure (or combination of procedures) you consider most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- | | | | |
|---------------------------------|-------------------------------------|---|--------------------------|
| 1. Further written submissions | <input checked="" type="checkbox"/> | 3. Site inspection | <input type="checkbox"/> |
| 2. One or more hearing sessions | <input type="checkbox"/> | 4. Assessment of review documents only, with no further procedure | <input type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Improving the clarity of the application.

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | | |
|--|-------------------------------------|-------------------------------------|
| | Yes | No |
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Planning Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

None.

Statement of reasons for requiring the review

You must state, in full, why you are requesting a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is, therefore, essential that you submit with your Notice of Review all necessary information and evidence that you rely on and wish the Planning Local Review Body to consider as part of the review.

If the Planning Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your Notice of Review and all matters you wish to raise. If necessary, this statement can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

See attached letter, plus 5 photographs.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your Notice of Review and intend to rely on in support of your review.

Attached letter and 5 photographs.

- Photo 1. Showing wreckage of original stone wall.
- Photo 2. Showing dilapidated wire fence with wooden fenceposts.
- Photo 3. Showing recently harvested field and distance of mown grass from slope.
- Photo 4. Showing boulder strewn slope which cannot be part of harvest area.
- Photo 5. Showing existing rear garden area without as yet timber frames for wild flowers.

Note: A copy of the Notice of Review, the review documents and any notice of the procedure of the review will be made available for inspection by prior appointment (Phone: 08457 406080) at the office of Planning and Building Standards Services, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB until such time as the review is determined. It may also be made available on the Council's website.

Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ **2 copies** of all documents, materials and evidence which you intend to rely on (eg planning application form, plans and drawings, decision notice or other documents) which are now the subject of this review.

Note. Where the review relates to a further application, eg renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed: Steve Davies

Date: 22nd June 2023

This form and 2 copies of all supporting documents should be sent to:-

**Planning and Building Standards Services
Community and Enterprise Resources, Montrose House, 154 Montrose Crescent,
Hamilton ML3 6LB**

Email: planning@southlanarkshire.gov.uk

Phone: 08457 406080

For more information or if you want this information in a different format or language, please phone 01698 455379 or send email to planning@southlanarkshire.gov.uk

For official use

Date stamp)

Mr and Mrs Stephen and Yvette Davies
Ard Taigh
Kilbank Road
Kirkfieldbank (Near Lanark)
South Lanarkshire
ML11 9UH.

Planning and Environmental Appeals Division
Hadrian House
Callendar Business Park
Falkirk
FK1 1XR.

Date 22nd June 2023.

STATEMENT OF APPEAL.

Dear Sir, or Madam,

There are several reasons for appealing the refusal of planning permission for application P/22/1355 first submitted 21st September 2022 and refused 24th March 2023.

Firstly, basic common sense in that it is a reasonable request to allow a new build house to have a rear garden. Every other residential property in the area has a garden, so for us to be allowed to have one would simply align us with all other houses in the area. Prior to the new house, Ard Taigh, being built, a tree survey was required, and this resulted in 15 trees being protected for the duration of the build. The location of these trees resulted in the house being located on the building plot closer to the Western boundary so that the Eastern entrance, through the front door was physically possible. This reduced the remaining plot width at the rear or Western side to approximately three metres, and of course resulted in our planning application to make the area larger and useable as a rear garden. It also begs the question as to why planning permission for a residential property was allowed in the first place if it was not going to be allowed to function in a normal manner. By normal, I mean amenities like all other properties in the area.

The metreafe affected by the above planning application is in fact sloping ground where the level drops some 1.2 to 1.5 metres across the entire width of the plot. This means that any crop on this agricultural field cannot be planted or harvested here for safety reasons. In addition, over decades there was originally a stone wall running from South to North near the top of this slope, which is now almost completely in ruins resulting in the stones it was built from being strewn over this area. Presumably because of this stone wall collapsing is why a wooden post with wire fencing was installed some 1.2 metres West of the original site of the stone wall. This wire fence was installed so long ago that this has also fallen into disrepair but at least was recognisable and indeed used as the building plot boundary.

The planning refusal quotes "4, 5, and NHE 16 of the South Lanarkshire Local Development plan 2 (2021) and Policy 17 of the NPF4 in that change of use from agricultural land to private garden ground detrimentally impacts upon the special landscape character of the area and that would conflict with the rural designation set out in the development plan.

In the 3rd paragraph I have done my best to accurately describe the state of the ground area where the planning application would change it from agricultural to private garden. Basically, I am trying to change what was a run down, debris strewn area, with the wreckage of two boundaries, one stone, and one a rotten and falling down fence, into a planned and pleasing to the eye area. Our current intention assuming success, is to not have any fencing but to build out of timber, several rectangular frames, fill with soil, and to then plant pollen bearing flowers inside them, to provide improved foraging for the bees from our beehives.

I have included 5 photographs of the area in question. 1/ shows the wreckage of the stone wall. 2/ shows the dilapidated wire fence with wooden support posts. 3/ shows the recently harvested field and the berth given by the tractor so as to avoid all the boulders and the slope. The grass closer to the house has been strimmed by me. 4/ shows the slope so that you can see it would be unsafe for the tractor to be on this area. 5/ shows the existing rear garden area, as yet without the timber frames for wild flowers.

The application is for 5 metres, but only half of this will be garden. The other 2.5 metres will be the unusable slope where over time we hope to remove the stones and boulders and to simply grass it.

We sincerely believe that our application and planned improvements to this 5 metre strip of land will actually make it most certainly more pleasing to the eye, and, to actually attain "A special landscape character" and indeed achieve the aims of the Council Development Plans and Policies. It most certainly will not have a detrimental impact.

My request is therefore that this planning application appeal be approved.

Yours Sincerely,
Mr Stephen Davies.

Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Appendix 6

3f

Further Representation

Further Representation From

- ◆ Statement of Observations from Planning Officer on Applicant's Notice of Review

STATEMENT OF OBSERVATIONS

3f

Notice of Review - Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Planning Application No. P/22/1355

Proposal - Change of use of agricultural land to private garden ground at Ard Taigh, Kilbank Road, Kirkfieldbank, Lanark, ML11 9UH

Appellant: Mr. Stephen Paul Davies

1.0 Planning Background

- 1.1 The above planning application was submitted to the Council in September 2022. The application was originally made invalid due to the submission being incomplete. Following receipt of additional information, including payment of the appropriate planning fee, the application was validated in November 2022. Following due consideration of the proposal, especially an assessment in terms of the provisions of the development plan, the application was refused consent under delegated powers on the 10th March 2023. The related Report of Handling sets out the planning policy and other material considerations for the decision. The reasons for the refusal are listed in the decision notice. These documents are available elsewhere within the papers.
- 1.2 The application site is to the west of a detached dwelling located at Ard Taigh, Kilbank Road, Kirkfieldbank. The applicant sought planning permission for the change of use of agricultural land to extend their private garden ground at Ard Taigh, Kilbank Road in Kirkfieldbank. The site is presently agricultural land adjacent to the appellants dwellinghouse which received consent in 2019 (P/19/0615). The house is a 1.5 storey dwellinghouse with attached double garage.
- 1.3 The agricultural land owned by the appellant is approximately 40 meters wide by 32.5 meters in depth. Immediately to the east of the house an area 5 meters deep by 32.5m in width would be changed to a private garden. This area is bordered by a road to the south and neighboring agriculture land to the west and north. The application site is further described in the Report of Handling.
- 1.4 The approved block plan in relation to the original consent for the house is attached as appendix one. It must be highlighted that the approved

house had a 'rear' garden generally 7542 mm deep but 31358 mm wide providing over 233 square meters of private rear garden ground. This is an adequate area of garden ground for a detached house. Indeed, in terms of the Councils Residential Design Guide the minimum for detached houses is 70 square meters, albeit this would related to a relatively small house.

1.5 This use of the appeal site as garden ground associated with Ard Taigh was brought to the attention of the planning Department following a complaint.

1.6 The reasons for refusal of application P/22/1355 were as follows;

01. The proposed change of use is contrary to Policy 17 of National Planning Framework 4 (2023) in that it seeks to use land in the rural area for housing purposes in a location where that site has not been allocated for residential development in the Local Development Plan.

02. The proposal is contrary to Policies 4, 5 and NHE16 of the South Lanarkshire Local Development Plan 2 (2021) in that the proposal would detract from the established character of the surrounding locale and adversely impact upon the established amenity of the area.

2.0 Assessment against the development plan and other relevant policies

2.1 Under Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the South Lanarkshire Local Development Plan 2 (SLLDP2) (adopted 2021) and National Planning Framework 4 (NPF4) adopted by Scottish Ministers on 13th February 2023. Section 24(3) of the 1997 Act confirms that if there is an inconsistency between NPF4 policies and a Local Development Plan which was adopted before the 13th February 2023, then the policies in NPF4 prevail.

2.2 The application site is agricultural land located in the rural area. It is not part of the approved house curtilage/plot established and authorised by consent P/19/0615. It is also designated as part of a Special Landscape Area within the South Lanarkshire Local Development Plan 2021.

2.3 Policy 17 of The National Planning framework states a development proposal for new homes in rural areas (and by implication increased garden ground) will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development:

- i. is on a site allocated for housing within the LDP;
- ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;
- iii. reuses a redundant or unused building;
- iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
- v. 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;
- vi. is for a single home for the retirement succession of a viable farm holding;
- vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or
- viii. reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house.

2.4 The proposal relates to an increase in the garden area associated with a new house and therefore is essentially residential in nature. The appeal proposal would extend the residential plot into agricultural land without any justification and ultimately would result in the expansion of residential development onto agricultural land/designated countryside. Such an expansion is not on a site identified for housing in the Local Development Plan, re-uses brownfield land (previously developed land) or is an appropriate re-use of a historic environmental asset. In addition, the appeal proposal does not accord with any of the other related policy criteria or considerations listed in paragraph 2.3 above. The appeal proposal is clearly contrary to the requirements of Policy 17.

2.5 Policy NHE16 – Landscape advises that development proposals within Special Landscape Areas will only be permitted where they can be accommodated without having an unacceptable significant adverse effect on the landscape character, scenic interest and special qualities and features for which the area

has been designated. All development should take into account the detailed guidance contained in the South Lanarkshire Landscape Character Assessment 2010. The site falls within the Rolling Farmland landscape type in the Middle Clyde Valley where landscape planning and management should aim to conserve the open and undeveloped character and profiles of the foothills and the quality of the panoramic views. The expansion of garden ground into such areas will change the landscape character of the area and cannot be supported in planning terms. Indeed, whilst it is acknowledged that the appeal site is relatively small in terms of the wider landscaped area, it is the principle of the development that conflicts with the policy requirements of NHE 16 which aims to protect, conserve and enhance the undeveloped, countryside character of the area.

- 2.6 In terms of Policy 4 – Greenbelt and Rural Area and Policy 5 – Development Management and Placemaking of the Local Development Plan 2, the appeal proposal cannot be supported. Within the rural area Policy 4 seeks to promote the amenity of the countryside recognizing that both the Greenbelt and Rural Area function primarily for agriculture, recreation and other uses appropriate to the countryside. The expansion of residential curtilages is not an identified function of the rural area. By default, therefore the appeal proposal does not merit support. Furthermore Policy 5 has as an underlying requirement to protect the natural environment. The proposed inclusion of the appeal site within a residential garden area undermines this requirement and if repeated throughout the rural area would seriously erode the character and landscape quality of the rural area.
- 2.7 In view of the above, it was concluded that the proposed extension of garden ground into the protected special landscape area within the countryside was inappropriate and does not comply with the requirement of the applicable policies within National Planning Framework 4 or the South Lanarkshire Local Development Plan 2. Accordingly, application P/22/1355 was refused consent.

3.0 Observations on applicants Notice of Review

- 3.1 The appellant has submitted a statement to support the review. The grounds are summarised below in bold. It must be emphasized however that the statement is somewhat silent in terms of responding to the provisions of the development plan policies against which, by law, the appeal proposal must be considered.
- 3.2 **Firstly, basic common sense in that it is a reasonable request to allow a new build house to have a rear garden. Every other residential property in the area has a garden, so for us to be allowed to have one would simply align us with all other houses in the area. Prior to the new house,**

Ard Taigh, being built, a tree survey was required, and this resulted in 15 trees being protected for the duration of the build. The location of these trees resulted in the house being located on the building plot closer to the Western boundary so that the Eastern entrance, through the front door was physically possible. This reduced the remaining plot width at the rear or Western side to approximately three metres, and of course resulted in our planning application to make the area larger and useable as a rear garden. It also begs the question as to why planning permission for a residential property was allowed in the first place if it was not going to be allowed to function in a normal manner. By normal, I mean amenities like all other properties in the area.

Reason: The appellant was the applicant for application P/19/0615. The approved drawings indicate a reasonable and useable rear garden area. If the house has been repositioned contrary to the approved drawings as indicated by the appellant, this would be contrary to the approved drawings. The Drawings for the applications can be reviewed using the links below. P/19/0615 '*BLOCK PLAN PROPOSED*' and '*EXISTING BLOCK PLAN*' along with the drawing from the recent applications P/22/1355 & P/22/1656 '*LOCATION PLAN*'. The drawings from all three applications do not show a change in orientation and observations of the land on google earth match the drawings.

[P/19/0615 | Erection of dwellinghouse | Kirkfield Lodge](#)

[P/22/1355 | Change of use of agricultural land to private garden ground. | Ard Taigh Kilbank](#)

- 3.3 The metreage affected by the above planning application is in fact sloping ground where the level drops some 1.2 to 1.5 metres across the entire width of the plot. This means that any crop on this agricultural field cannot be planted or harvested here for safety reasons. In addition, over decades there was originally a stone wall running from South to North near the top of this slope, which is now almost completely in ruins resulting in the stones it was built from being strewn over this area. Presumably because of this stone wall collapsing is why a wooden post with wire fencing was installed some 1.2 metres West of the original site of the stone wall. This wire fence was installed so long ago that this has also fallen into disrepair but at least was recognisable and indeed used as the building plot boundary.**

Reason: The applicant owns the appeal site and further adjoining agricultural land. The fact that an old stone wall and fence has fallen into a state of disrepair is at the owner's discretion. Indeed, any necessary repairs can be conducted without the need for planning consent if the fence/wall is re-instated

in a similar manner to the original. Furthermore, the removal of stones can be actioned without consent and even with the change of level highlighted the ground still makes a valuable contribution to the open character of the countryside and surrounding area. In addition, it must be accepted that not all parts of the rural countryside has to be agriculturally productive.

- 3.4 In the 3rd paragraph I have done my best to accurately describe the state of the ground area where the planning application would change it from agricultural to private garden. Basically, I am trying to change what was a run down, debris strewn area, with the wreckage of two boundaries, one stone, and one a rotten and falling down fence, into a planned and pleasing to the eye area.**

Reason: The appeal site can be improved without the change of use to a private garden as proposed. The land does not need to be left as rundown or a debris strewn area. The appellant is the landowner and has a responsibility to maintain the ground in a reasonable manner.

- 3.5 The planning refusal quotes “4, 5, and NHE 16 of the South Lanarkshire Local Development plan 2 (2021) and Policy 17 of the NPF4 in that change of use from agricultural land to private garden ground detrimentally impacts upon the special landscape character of the area and that would conflict with the rural designation set out in the development plan.**

Reason: The appellant has made a brief reference to Policies 17 of the National Planning Framework 4 (NPF4) along with policies 4,5 and NHE16 of the Local Development Plan 2. However as highlighted earlier the associated appeal must be determined in accordance with the policies of the Development Plan and the appellant has not substantially elaborated or challenged the assessment and determination of his proposal in terms of the aforementioned policies.

4.0 Conclusion

- 4.1** In summary, the proposed development does not comply with the provisions of Policy 17 of the adopted National Planning Framework 4. The appeal proposal seeks to use land in the rural area for a purpose related to residential use in a location where the site is not allocated for residential development in the Local Development Plan.
- 4.2** Furthermore, the proposed development does not comply with the terms of Policies 4, 5 and NHE16 of the adopted Local Development Plan 2 in that the proposal would detract from the established character of the surrounding

locale and adversely impact upon the established countryside without proper justification. In this respect, the proposal would directly contradict Policies 4, 5 and NHE16.

- 4.3 The Report of Handling associated with application P/22/1355 provides a detailed assessment of all material planning considerations associated with this appeal. As such, it is clear that the proposal does not comply with the terms of Policy 17 of the National Planning Framework 4 nor Policies 4, 5 NEH16 of the South Lanarkshire Local Development Plan 2. There are no other material planning considerations that would outweigh the provisions of the Development Plan. It is a statutory requirement that when making any determination under the Planning Act regard must be had to the development plan, and the determination shall be in accordance with the provisions of the development plan unless materials considerations indicate otherwise.
- 4.4 In conclusion, it is respectfully requested that the Review Board uphold the original decision to refuse consent for the proposed change of use of agricultural land to private garden ground and dismiss this appeal.

Appendix 7

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**Applicant's Comments on Further Representation
Submitted by Planning and Regulatory Services in the
Course of the Notice of Review Consultation Process**

From – Mr Stephen Paul Davies,
Ard Taigh,
Kilbank Road,
Kirkfieldbank,
Lanark, ML11 9UH.

To – Mr Stuart McLeod Page 1 of 2.
South Lanarkshire.gov.uk

3g

Reference Planning Application No. P/22/1355

Proposal – Change of use of agricultural land to private garden ground at Ard Taigh, Kilbank Road, Kirkfieldbank, Lanark, ML11 9UH.

Appellant: Mr Stephen Paul Davies.

Rebuttal of Statement of Observations.

Response to **1.1**, 1.2, 1.3, 1.4 - none.

Response to 1.5 - The length of the plot, North to South is I agree 31.358 metres. The depth of the garden is currently 3 metres deep, not 7.542 as claimed in 1.5. If we had 7.542 metres depth there would be no need for any garden extension application. To protect existing mature trees at the rear to both the North and South of the plot we are not and will not in the future be making use of 9 metres to the South, and 9.3 metres to the North as rear garden. This means the current width of the rear garden is 13.058 metres by 3 metres, or 39.174 square metres. If the appeal is successful then it would add 13.058 metres by 2 metres only (The other 3 metres is simply the slope down to the field) or 26.116 square metres. This means that if this appeal is successful then the total rear garden area will be 65.29 square metres, still less than the 70 square metres minimum stated in 1.5.

Response to 1.6 – none.

Response to 1.7 – Part one. Simple common sense and logic dictate that the proposed change of use cannot be contrary to Policy 17 of the National Planning Framework 4 (2023) or by it's own definition, there would be no planning approval for the house, Ard Taigh in the first place.

Response to 1.7 – Part two. It is nonsensical to suggest that a reasonable sized rear garden to a residential house would detract or adversely impact on the surrounding locale, or established amenity of the area. As with Part one, planning consent for the new house being allowed, destroys the logic of this argument.

Response to **2.1**, 2.1, and 2.2 – none

Response to 2.3 – As above the proposed change to useable garden area is, "Suitably scaled, sited, and designed to be in keeping with the character of the area and the development." It is perhaps sensible at this point to emphasize that the entire rear garden including the change of use area is to be hard standing with a timber edging, both of which fall within the definition of, "Agricultural." The only addition to this will be wooden planters at both rear corners holding soil and pollen bearing flowers for our 3 beehives.

Response to 2.3, **1** though to **8** – none and indeed not applicable in any sense to this case.

Response to 2.4 – See reply to 1.5

Response to 2.5 – With respect to Policy NHE16. I find myself in total agreement with the description in this section. I would however, query how one is supposed to support these aims if one is not allowed to reside in the area in an acceptable abode including a rear garden, which I notice, every other house in the area already has.

Response to 2.6 – The only logical conclusion to this is that nobody should be allowed to live in the area. An obvious nonsense. I therefore query the inclusion of 2.6 in this “Statement of Observations.”

Response to 2.7 – This is very simple. If the house complies, then so does a reasonably sized garden.

Response to **3.1** through to **3.6** – I am a pensioner in his 70’s and not a qualified planning officer. There is obviously going to be a difference in knowledge area between us. I have attempted to use common sense in my approach to this issue and continue to do so. The house has not been repositioned contrary to approved drawings. If my memory is correct, our architect agreed positioning with the planning department, in respect of taking into account tree locations which needed to be protected. There was no change in orientation. The state of disrepair at the rear of the property was inherited by me upon purchase of the building plot and the adjoining land. Since then the wreckage of the wire fence has been removed and similarly the loose stones and boulders have been dealt with. Use of the slope for agricultural purposes would be unsafe due to the steepness of the slope.

Response to 4.1, 4.2, 4.3, and 4.4 – The writer decides to include, Policy 17, National Planning Framework 4, Policies 4, 5, and NHE 16, Local Development Plan 2. I notice he ignores policies which might have the reverse effect, for example “The Honey Bee Health Strategy 2022 – 2032”. This was publicly supported by, Mairi Gougeon, Cabinet Secretary for Rural Affairs and Islands. Who stated “I am delighted to announce the launch and publication of Scotland's second 10-year Honey Bee Health Strategy - - - My colleagues and I look forward to working with all those who have an interest in honey bee health and other pollinators to achieve this. I cannot help but wonder if examples were cherry picked to aid refusal instead of a more fair and balanced approach.

Throughout the entire planning process, from start to finish, a highly respected and hugely experienced professional architect with all associated indemnities etc was totally in control, dealt with all the applications with your planning officers. All appropriate planning approvals were sought and gained throughout the process. During the building process this architect and your planning officers “signed off” the build at each relevant stage. All these professionals concurred at all times.

Yours Sincerely, Mr Stephen Paul Davies.