

# Appendix 5

## Further Representations

### Further Representation From

- ◆ Statement of Observations from Planning Officer on Applicant's Notice of Review
- ◆ Mr Scott Berry, by email
- ◆ Mr Alex Merry, by email



**Application No: P/18/0099**  
**Land at Mauldslie Road, Carluke**

**Statement of Observations**

**1.0 Planning Background**

- 1.1 Mr Paul Doyle submitted a planning application (planning reference CL/17/0403) on 11 September 2017 for the erection of two dwellinghouses and the formation of an access to the west of number 27 Mauldslie Road, Carluke. The application was withdrawn on 7 March 2018 as the position of the proposed access was sub-standard in terms of forward visibility for vehicles travelling along Mauldslie Road. Following discussions with Roads and Transportation Services a revised position for the access was proposed and thereafter a fresh application (planning reference P/18/0099) was submitted.
- 1.2 After due consideration of the application in terms of the Development Plan, (primarily the adopted South Lanarkshire Local Development Plan) and all other material planning considerations, the Planning Service was minded to refuse planning application P/18/0099 under the Council's approved Scheme of Delegation. Whilst a report was in preparation no formal decision was issued prior to receipt of the Notice of Review submitted by Mr Doyle against the non-determination of the application.
- 1.3 In terms of the planning history of the site, it is noted that the current site previously formed part of a larger site for which Mr Doyle sought outline planning permission for the erection of two dwellinghouses (planning reference CL/02/0461) on what was previously developed land. Within that application it was indicated that the ground now the subject of this application P/18/0099 would be retained as garden ground. The 2002 application was refused on planning policy and access grounds. The applicant Mr Doyle appealed to the Scottish Executive but the appeal was dismissed in May 2003 (DPA reference P/PPA/380/211). However the issue of the access points was satisfactorily addressed in a subsequent application CL/03/0596, with further applications (CL/06/0055, CL/07/0013, CL/09/0124) dealing with design alterations to the house style and renewal of permission. The two dwellings have been erected and are now occupied.

**2.0 Assessment against the Development Plan and other relevant policies.**

- 2.1 Section 25 of the Town & Country Planning (Scotland) Act 1997, as amended, requires that an application for planning permission is determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan consists of the Clydeplan Strategic Development Plan (SDP) as approved July 2017 and the adopted South Lanarkshire Local Development Plan (SLLDP) (adopted 29 June 2015). The SDP sets out the strategic policy context against which developments proposals within the Glasgow and Clyde Valley area. The proposal raises no issues with regard to the SDP. The adopted SLLDP and its associated supplementary guidance on Green Belt and Rural Areas set out a detailed planning policy framework to promote and guide development within South Lanarkshire Council. On 29<sup>th</sup> May 2018 the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. The new plan builds on the

policies and proposals contained in the currently adopted South Lanarkshire Local Development Plan. For the purposes of determining planning applications the proposed South Lanarkshire Local Development Plan 2 is now a material consideration.

2.2 The following policies of the SLLDP and its supporting guidance are relevant to the assessment of application P/18/0099 which is the subject of this review:

2.2.1 **Policy 3 - Green Belt and Rural Area** states that “The Green Belt and the rural area 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, other than in a number of circumstances -

- i) Where it is demonstrated that there is a specific locational requirement and established need for a proposal;
- ii) The proposal involves the redevelopment of derelict or redundant land and buildings where significant environmental improvement can be shown;
- iii) The proposal is for conversion of traditional buildings;
- iv) The proposal is for limited development within clearly identifiable infill, gap sites and existing building groups;
- v) The proposal is for extension of existing premises or uses.”

2.2.2 Criteria i), iii) and v) are not relevant to the consideration of this proposal and in relation to criteria ii) it is noted that while the application site consists of unmaintained grass, it is not a derelict site which is environmentally damaging to the locality. Indeed in previous planning applications on the land adjoining to the east, the ground now the subject of this application was described as a grazing field and this is verified by historical Ordnance Survey mapping. Criteria iv) refers to infill, gap sites and existing building groups. The SLLDP defines a gap site as being bounded on two sides by built development, fronted by a road and being capable of accommodating one house but a maximum of two subject to design. However it is considered that the separation distance of approximately 140 metres to the Carluke Golf clubhouse is such that the application site can't be considered as a gap site, nor is it an infill site but rather if developed would further extend the ribbon development along the roadside.

2.2.3 **Policy 4 - Development Management and Placemaking** seeks to ensure that development proposals take account of and integrate with the local context and built form. In terms of the detailed design of the proposed houses it is considered that no issues are raised with regard to the requirements of this policy. Policy 4 also advises that development proposals must also accord with other relevant policies and proposals in the development plan and other appropriate supplementary guidance.

2.3 Supplementary Guidance 2: Green Belt and Rural Area states that new housing development proposals will be resisted if they would result in suburbanisation due to the design and layout of the proposal, where it would result in the extension of an existing ribbon form of development or contribute to the coalescence with another building group. The Supplementary Guidance (SG) adds clarification to the definition of a gap site and its suitability for development. The emphasis is on protecting the character of the surroundings, for example by considering the number of other such sites in an area in order to avoid cumulative impact.

2.3.1 **Policy GBRA5: Development of Gap Sites** advises that to be favourably considered, proposals should satisfy all of the following criteria:

- i) The building group should form a clearly identifiable nucleus with strong visual cohesion. The site should be bounded on at least two sides
- ii) The distance between the buildings should be no more than that needed to allow the formation of a maximum of two plots of a size in keeping with the curtilage and frontage of the existing group.
- iii) An extension to a building group will not normally be acceptable where it would result in ribbon development or coalescence with another building group. Exceptionally, the layout of the existing group of houses may allow the infill of a small area up to a natural boundary, for example an established tree belt.
- iv) The location, siting and design of the new houses should meet existing rural design guidelines and generally should be complimentary to the character of the existing built frontage.
- v) Provision must be made for private amenity space for the house comparable to adjoining properties in the built up frontage.
- vi) The landscape character of the area must not be compromised by the development and proposals should have regard to the landscape backdrop, topographical features and levels. Trees, woodland and boundary features should be retained.
- vii) Proposals should have no adverse impact in terms of road safety.
- viii) Proposals should have no adverse impact on biodiversity, or features which make a significant contribution to the cultural and historic landscape value of the area.

2.3.2 As noted above the application site is not considered to be a gap site as it does not adjoin development on two sides – this is illustrated in the submitted block plan drawing number DR-A-1004 revision P2 which shows the separation distance to the golf club house. In addition the application site in relation to the dwellings on the east would result in a development which would exacerbate the ribbon development on Mauldslie Road. It is noted that the proposed house style and scale would be similar to the two houses consented under CL/06/0055, and that a similar proportion of private amenity ground could be provided. However, to enable the private amenity space to be fully utilised it is anticipated that a number of mitigation measures would be required along the southern boundary of the application site, with the primary function of stopping mis-hit golf balls from the 18<sup>th</sup> tee of Carluke Golf Course. Within the submitted Design Statement the applicant has proposed a 5 metre high weld-mesh fence along the common boundary behind which would be a landscaping strip varying in width of 5 to 8 metres, of trees and shrubs. All would be separated off from the individual gardens by a close boarded timber fence of an indeterminate height. The opinion of the Council's Golf Development Officer advice was sought in relation to the concerns raised about stray golf balls, and he has advised that any fencing would have to be extremely high to stop any golf balls that may be struck in that direction either inadvertently or with the intention of over sailing the existing trees. He does not consider that 5 metres is high enough to ensure the safety of residents within the proposed dwellings. It is further considered that this mitigation of a weld-mesh fence would have an adverse impact on the landscape character of the area and would appear as an incongruous feature at the rear of the two proposed houses. The proposal therefore can not meet all of the criteria of Policy GBRA5.

2.4 On the basis of the above assessment it is considered that the proposal does not accord with Policy 3 of the South Lanarkshire Local Development Plan or policy GBRA 5 (Supplementary Guidance on Green Belt).

### **3 Other material considerations**

- 3.1 The Council's Residential Design Guide notes with regard to garden ground, residents should be provided with a pleasant, safe living environment that offers reasonable privacy, daylight and a secure, private outdoor living space. The Council will assess not only the size of garden being provided, but its usability to ensure that it is a space that residents will want to use. For dwellings of the size proposed, the minimum rear garden size should be 70 square metres with a minimum depth of 10 metres to allow for a drying area along with play/amenity space. The submitted plans show that the depth of the rear gardens, as measured from the rear elevation to the timber boarded fence at the edge of the landscape strip, would be between 5 and 6 metres. The proposed houses would also incorporate timber decking wrapping round the side and rear elevations. It is considered that the eastern most house would be the most likely to be affected by golf ball strikes due to its orientation, the fenestration on its east gable and the position of the decking. It is therefore considered that the proposal does not comply with the Residential Design Guide as the safety and amenity of residents could be adversely affected by the adjacent and long established land use.
- 3.2 For the purposes of determining planning applications the proposed South Lanarkshire Local Development Plan 2 (SLLDP2) is now also a material consideration. In this instance Policies 4: Green Belt and Rural Area, GBRA 1: Rural Design and Development, and GBRA 8: Development of Gap Sites are relevant.
- 3.3 **Policy 4 Green Belt and Rural Area** advises that development which does not require to be located 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. There are no proposals to extend the Carluke settlement boundary westward to incorporate the existing dwellings on Mauldslie Road. The application to erect two dwellinghouses is therefore contrary to Policy 4 of the SLLDP2.
- 3.4 **Policy GBRA 1 Rural Design and Development** contains detailed guidance on the design and siting of potential developments, including specific criteria on garden ground and boundary treatment.
- 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.

As noted above, the Golf Development Officer advises that there is a potential for golf balls to hit the proposed houses and/or land in their garden ground, thus affecting the usability of the private amenity space. Any mitigation on the boundary in the form of a weld-mesh fence, by virtue of its height, would adversely affect the visual amenity and rural character of the area.

- 3.4 **Policy GBRA8: Development of Gap Sites** advises that the development of gap sites will not normally be acceptable in locations characterised by a scattering of houses or other buildings in the open countryside, where the development would result in the extension of an existing ribbon form of development or contribute to coalescence with another building group. As noted above, development of this site would further extend the built footprint along Mauldslie Road, contrary to policy.

#### **4 Observations on applicant's 'Notice of Review'**

- 4.1 The applicant's stated reason for a review is that "application P/18/0099 was submitted on 27 February 2018, validated on 16 April 2018, and ought to have been determined by 11 June 2018. A full previous application was lodged on the 8 September 2017 and full consultation and discussion with the planning officer was carried out over a 5 month period, and was withdrawn on her advice on the 6 February 2018. There has been no agreement to extend the statutory time limit for determination. No satisfactory reason has been advanced for any delay in determination."
- 4.2 It is confirmed that the determination of the application was delayed due to the need for a detailed assessment, including consideration of road safety and issues related to play on the adjacent Carluke Golf Course.
- 4.3 Roads and Transportation Services were consulted on this, and the previous withdrawn application (CL/17/0403) due to the proposed formation of a new access onto the C1, Mauldslie Road. The speed survey submitted by the applicant in November 2017 formed an important part of the assessment process and assisted in agreeing the optimal location for the access point as reflected in the current application. However, the issue of forward visibility still required technical consideration before a formal recommendation could be made by Roads and Transportation Services. Their response was received on 14 June 2018, advising that they had no objections subject to the inclusion of a number of conditions relating to visibility splays, footways and parking.
- 4.4 Given the level of representations that had raised safety concerns about the proposal and its physical relationship with the golf course's 18<sup>th</sup> tee and fairway, the view of the Council's Golf Development Officer was sought. The response was received on 23 May 2018 and highlighted that the two proposed houses would be approximately 220 yards from the 18<sup>th</sup> tee which would be the desired landing distance for most golfers, with the possibility of stray shots curving into the application site. In the opinion of the Officer longer hitters, and considering the lie of the 18<sup>th</sup> green relative to the 18<sup>th</sup> tee, there could be an inclination to "cut" the corner formed by the mature trees within the golf course with the potential again, for errant shots landing in the application site and possibly causing damage to property or personal injury. Whilst mitigation in the form of a 5 metre high weld-mesh fence has been included in the development proposal, this would be insufficient to stop any golf balls. As part of earlier efforts by Carluke Golf Course to minimise such issues for the two houses already constructed under planning consent CL/06/0055, the 18<sup>th</sup> tee has already been repositioned and having visited the golf course, the Golf Development Officer does not see any realistic options for a further repositioning. In communication with the applicant's agent (9 May 2018) the issue of stray golf balls was raised as being of concern and the Council enquired what advice, such as from a golf course architect, the applicant had received on possible safety issues arising from the siting of the houses, and what additional mitigation measures could be explored. No additional clarification or supporting information on this matter has been received from the applicant.
- 4.5 As stated above (paragraph 1.2), a report recommending the refusal of the application, was being prepared by Planning Services under the Council's approved Scheme of Delegation. However, the appeal, by Mr Doyle, against the non-determination of the application, was received prior to a formal decision being issued.

## 5 Conclusions

5.1 Taking account of the above it is considered that the proposed development does not accord with the provisions of the adopted South Lanarkshire Local Development Plan (2015) and its supplementary guidance as:-

- i) The proposal would constitute new residential development in the Greenbelt without appropriate justification and would be contrary to Policy 3 - Green Belt and Rural Area of the South Lanarkshire Local Development Plan (adopted 2015).
- ii) The application site does not constitute a gap site as defined within the adopted South Lanarkshire Local Development Plan, and as such the proposal would be contrary to Policy GBRA 5 – Development of Gap Sites
- iii) The landscape character of the area would be compromised by mitigation measures required along the southern boundary of the application site, as well as impacting on the residential amenity of the proposed houses. The proposal is therefore unable to meet the criteria of Policy GBRA 5 – Development of Gap Sites.

5.2 It is also considered that if approved, the proposal would set an undesirable precedent which could encourage further similar applications for development prejudicial to the Greenbelt designation.

5.3 In addition to the adopted development plan there are other material considerations, which are pertinent to the consideration of the proposal. These are the Council's Residential Design Guide, the proposed South Lanarkshire Local Development Plan 2 and the advice received from the Golf Development Officer. The proposal is considered :-

- i) To be new residential development in the Greenbelt which does not comply with the criteria set out in Policy 4: Greenbelt and Rural Area, or in Policy GBRA 8: Development of Gap Sites of the South Lanarkshire Local Development Plan 2.
- ii) To have private amenity space and southern boundaries that would be compromised by dint of mitigation measures necessary to minimise risk from golf balls. There would also be an adverse impact on the landscape character of the area and as such the proposal does not meet all of the criteria set out in Policy GBRA 1: Rural Design and Development.
- iii) To have a residential amenity that could be adversely affected by a land use outwith the applicant's or future home-owners control. The line of play on the established and adjacent golf course without substantial mitigation measures, has the potential for personal injury or damage to property.

5.4 Given the above, the Planning Service requests that the Planning Local Review Body refuse the application for planning permission for the following reasons –

- 1) The proposal would constitute new residential development in the Greenbelt without appropriate justification, and the site does not constitute a clearly identifiable infill gap site. The proposal would therefore be contrary to Policies 3 - Green Belt and Rural Area and GBRA 5 – Development of Gap Sites of the South Lanarkshire Local Development Plan (adopted 2015).
- 2) Without mitigation measures to stop errant golf balls from the adjacent golf course, the safety and residential amenity of the proposed dwellings is likely to be compromised and any structures erected to ensure the safety of the residents



would require to be of such a scale so as to both adversely affect the landscape character of the area and have an over-bearing impact on the occupants of the dwellings.

**From:** scott berry [REDACTED]

**Sent:** 27 June 2018 12:52

**To:** McLeod, Karen

**Subject:** Re: Planning Local Review Body - Mauldslie Road, Carluke ML8 5HG

Re. Above

I note that the application has now been amended with the proposal that a five metre fence rather than a three metre fence be erected. I still consider that the height of the proposed fence is still totally insufficient to protect the properties and occupants from stray golf balls.

Yours sincerely

Scott Berry  
33 Cooper Avenue  
Carluke

**From:** [REDACTED]  
**To:** [McLeod, Karen](#)  
**Subject:** Re: Planning Local Review Body - Mauldslee Road, Carlisle ML8 5HG  
**Date:** 02 July 2018 22:57:34

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Karen,

I understand that my previous objections will be taken into account along with those many others who have also raised objections.

I would like to take this opportunity to reinforce the safety aspects of this application. This area is constantly the focus of stray golf balls and the inclusion of a 5 m fence will in no way alleviate this. Should this application be approved by either the Planning Committee or by appeal to the Scottish Government without doubt there will be damage to property and a very real danger of serious personal injury.

I would be obliged if these fears could be conveyed to all concerned.

Many thanks  
Regards  
Alexander Merry

Sent from my iPhone

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