

## **NOTICE OF REVIEW - STATEMENT OF OBSERVATIONS**

P/21/1210 - Erection of agricultural worker's dwelling house (permission in principle) at Land 475m Southeast of Cobblehaugh Farm Cottage, Cobblehaugh Road, Lanark

### **1 Planning Background**

- 1.1 Agent Derek Scott, on behalf of the Firm of Thomas Orr, submitted a planning application for the 'erection of agricultural worker's dwelling house (permission in principle)' at land 475m Southeast of Cobblehaugh Farm Cottage, Cobblehaugh Road, Lanark. After due consideration of the application in terms of the Development Plan and all other material planning considerations, planning application P/21/1210 was refused by the Council under delegated powers on 6 May 2022, for the reasons listed in the decision notice.
- 1.2 The report of handling, dated 5 May 2022, explains in detail all material planning considerations and the reasoned justification for this decision.

### **2 Assessment Against the Development Plan and Other Relevant Policies**

- 2.1 Section 25 of the Town and 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 for the appeal site comprises the approved Clydeplan Strategic Development Plan (July 2017) and the adopted South Lanarkshire Local Development Plan 2 (April 2021).
- 2.2 The proposed development for the erection of an agricultural worker's dwelling house at Cobblehaugh Road, Lanark was not considered to be of a strategic scale. It was therefore appropriate to consider the application against the policies in the adopted Local Development Plan, which complements the Strategic Development Plan.
- 2.3 The appeal site is located within the designated rural area and special landscape area in the adopted South Lanarkshire Local Development Plan 2. The site is affected by a number of policies. However, following due consideration and assessment of the proposal it was considered that the development did not accord with the provisions of Policy 4 'Green Belt and Rural Area,' Policy 14 'Natural and Historic Environment,' Policy GBRA1 'Rural Design and Development' and Policy GBR10 'Accommodation Associated with an Existing or Proposed Rural Business.' These policies are set out and discussed in detail within the report of handling.
- 2.4 As part of the planning application process consultations were undertaken. These consultation responses were material to the assessment of the application and are summarised in the report of handling. In addition, statutory neighbour notification was carried out and following this publicity six letters of representation were received in relation to the application. These letters of objection were material to the assessment of the application and provide details of the concerns held by those who reside closest to the site and are likely to be most affected by the development. The report of handling concisely summarises the issues raised in the letters of representation and provides an appropriate planning response.
- 2.5 Whilst the agents statement of reasons requesting a review of the decision are not particularly succinct, they have been summarised below. In addition, detailed comments and clarification from the Planning Service on each of these issues are provided as follows:-

**(1) Having granted approval for the agricultural buildings, it is entirely inconsistent to now claim that a dwelling house proposed at the same location would constitute an isolated form of development.**

It is noted that prior approval was granted on 11 April 2022 for the 'erection of agricultural buildings to accommodate livestock, fodder and machinery storage, enclosed yard and formation of external hardstanding area' (P/21/1320) at the site. In addition, prior approval for the 'erection of an agricultural building' (P/20/0620) was also granted at the site. It was noted during the assessment of the planning application that P/20/0620 had not been implemented.

Application P/21/1210 related to an application for planning permission in principle for a stand alone dwelling and, under the terms of the current planning legislation, a planning application requires to be subject to a different assessment process than that of an application for prior approval.

Unlike applications for planning permission, prior notification is a procedure where a developer must advise the Planning Authority about their proposal before utilising their permitted development rights. Therefore, the prior approval assessment was limited to the visual impact of farm buildings at this site and the scope of this assessment cannot question the need for or the principle of the development. The proposal for a new build dwelling at the site, situated a significant distance from the existing farm buildings and operations, was subject to an entirely different assessment from that of a prior notification for agricultural buildings.

**(2) The first reason for the refusal of the application claims quite erroneously that there is inadequate justification for the dwelling house proposed.**

The first reason for refusal establishes that the proposed development is contrary to Policy 4 'Green Belt and Rural Area' of the adopted Local Development Plan 2 as it would constitute an isolated form of development within the Rural Area without appropriate justification. Paragraph 3.2 of the report of handling clearly assesses the proposal in the context of Policy 4 of the adopted Local Development Plan.

With regard to the issue of the justification for the dwellinghouse, during the course of the assessment of the application the agent was advised that in order for the Planning Service to support the proposal within the current policy context, it must be demonstrated that a justification exists for a new dwelling in terms of both locational need and viability. It is noted that as part of the planning application submission the agent included a 'Planning Statement' prepared by Derek Scott Planning and Development Consultants. The agent was subsequently asked to provide appropriate justification for the proposed dwelling and submit a labour requirement report from a suitably qualified agricultural body such as SAC and a full set of accounts for the last two years. The agents response to this request is provided in an email dated, 4 April 2022 (Production 1), which states:

'The SAC are consultants to the agricultural industry rather than any sort of body and as a consequence of that I am greatly surprised that you are advertising and promoting the engagement of their services to prepare a labour requirement report. That, to me is totally out of order and of huge concern. I have been preparing labour requirement assessments for the last twenty five years in support of applications for agricultural worker's dwelling houses. They have been accepted in all Council areas where submitted including Aberdeenshire, Angus, East Ayrshire, East Lothian, East Renfrewshire, Fife, Highland, Midlothian, North Lanarkshire, Perth and Kinross, Scottish Borders, West Lothian and South Lanarkshire. This is the first time in those twenty five years that a Council has told me to engage another firm of consultants to prepare such a report implying that I wasn't suitably qualified. Both our client, who

holds a first class honours degree in Agriculture and I are shocked and quite offended by this suggestion and I would suggest you retract it immediately. I would further add that summary accounts were submitted in support of the application.'

Therefore, as demonstrated in Production 1, it was made clear during the assessment of the application that the agent was unwilling to provide the additional information which was requested by the Planning Service in order to fully assess the proposal. Therefore, it was concluded that there was not appropriate justification submitted for the proposed agricultural worker's dwelling house at this site.

**(3) The Planning Officer's report of handling claims that the 'financial information which has been submitted in support of the application is considered to be relatively minimal.' The report of handling also notes that we were 'asked to provide a labour requirement report from a suitably qualified agricultural body such as the Scottish Agricultural College' but did not do so. We have now submitted a letter from the Scottish Agricultural College as part of this notice of review.**

For the avoidance of doubt, the submitted correspondence relating to this Notice of Review includes a document, letter dated 13 June 2022 from SAC Consulting, which is new information submitted after the determination of planning application P/21/1210 and cannot be considered to form part of this review.

**(4) The proposed dwelling house is on a brownfield site and has the potential to significantly improve rather than detract from the character and appearance of the area and gains support in this regard from the terms of Policy GBRA7.**

Policy GBRA7 'Small Scale Settlement Extensions (Rural Area Only)' of the adopted Local Development Plan relates to the development of small scale sites on the edge of existing settlements. The site is considered to be isolated, there are no adjacent existing buildings and its development would not 'round off' the existing built form of an established settlement. Subsequently, this policy was not relevant in the assessment and determination of planning application P/21/1210.

**(5) In relation to reason for refusal number 3, there is no merit or sense whatsoever in erecting another dwelling house next to the established group of farm buildings at Charleston Park Farm, which would be some 1 km to the west of those permitted buildings where the sheep farming enterprise would be based.**

A full assessment of the proposal for a new dwelling in the context of Policy GBRA10 of the adopted Local Development Plan is provided in paragraph 3.5 of the report of handling.

**(6) We do not agree with the reason for refusal number 4. If approving such a proposal sets an undesirable precedent for such applications one must question the actual purpose of the planning system operating within South Lanarkshire and in particular its relevance and applicability to economic development in rural areas.**

The planning application which is the subject of this review has been fully assessed as described in Section 2 above and it was concluded that the proposed agricultural worker's dwelling house does not represent an appropriate form of development.

**(7) We do not accept that the proposed dwellinghouse will have an adverse visual impact on the special landscape area and there are clear social and economic benefits to be derived from the development proposed.**

These issues have been addressed in the report of handling.

**(8) The Economic Development Officer's consultation response in relation to the application has been overlooked by the planning officer.**

The consultation response from Economic Development was fully reviewed as part of the determination of the planning application. In general, consultation responses can be detailed and include numerous pages. However, the planning officers delegated and committee reports, including the subject report of handling, provide a concise summary of the consultations responses and the key issues raised by each consultee. Of particular note in this consultation response was that only sparse financial information had been provided and despite the request, as illustrated in Production 1, no further financial information was provided to the Planning Authority.

### **3 Summary and Conclusions**

- 3.1 In summary, as required by planning law, application P/21/1210 has been assessed in terms of the Development Plan and all other material considerations. In this respect the report of handling provides a detailed summary of all relevant considerations and a reasoned justification that the proposal did not accord with the policy provisions of the adopted South Lanarkshire Local Development Plan 2. It is, therefore, respectfully requested that the Planning Local Review Body support the decision to refuse consent and dismiss the request to overturn the refusal of planning permission P/21/1210 based on the information contained in the report of handling and the associated reasons for refusal.

## **List of Supporting Documents**

Production 1	E:mail from Derek Scott to Bernard Darroch (Planning and Building Standards Manager), dated 4 April 2022
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**From:** [Neely, Gail](#)  
**To:** [Neely, Gail](#)  
**Subject:** FW: P/21/1320 and P/21/1210 Charleston Park Farm, Hyndford Bridge, Lanark  
**Date:** 26 July 2022 16:29:04  
**Attachments:** [image012.jpg](#)  
[image013.png](#)  
[image014.jpg](#)  
[image015.png](#)

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**From:** Derek Scott [REDACTED]  
**Sent:** Monday, April 4, 2022 10:53:33 AM  
**To:** Darroch, Bernard [REDACTED]  
**Cc:** Chief Exec [REDACTED] Booth, David  
[REDACTED]; Lockhart, Richard Councillor  
[REDACTED] Marrs, Julia Councillor  
[REDACTED] McClymont, Catherine Councillor  
[REDACTED]  
**Subject:** P/21/1320 and P/21/1210 Charleston Park Farm, Hyndford Bridge, Lanark

Dear Bernard,

Thank you for your e-mail on Friday evening in connection with the above-mentioned applications. I am unable to hide my disappointment and frustration with the content of your response. Councillor Richard Lockhart was recently advised by your colleague Gail Neely that the only outstanding item to be addressed related to roads considerations and that was due to some apparent confusion and misunderstanding over the use of the access road to the application site for haulage purposes. However, your e-mail now raises a number of other issues, all of which have been raised previously by Gail Neely and responded to in full. Please refer to my further detailed comments below in red . I would suggest in the circumstances that you revisit the applications again, review all of the material submitted in support of them and revert with a proper and comprehensive update on progress. What you have provided is simply not good enough. I attach for convenience below a link to various emails issued to and received from your Council in connection with the application.

<https://wettransfer.com/downloads/22954f89950d8d5e65e6e89507a00a5120220403124056/5f42c4e68fcb6426e1b537d73105feb20220403124114/fc5333>

I look forward to hearing from you further.

Regards

Derek



*Derek Scott Planning*

[REDACTED]

also at

[REDACTED]

[REDACTED]

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**From:** Darroch, Bernard [REDACTED]  
**Sent:** 01 April 2022 16:57  
**To:** Derek Scott [REDACTED]  
**Subject:** P/21/1320 and P/21/1210 Charleston Park Farm

Hi Derek,

Further to our recent communication, first of all may I offer our apologies for the unacceptably long time these applications have been in our system. We have been experiencing a high volume of applications but I accept that more progress should have been made by now. I have had a discussion with the case officer and we will now undertake to process the applications as a matter of priority.

In terms of the Prior Notification, you stated in your covering letter that you wish that submission to be assessed in conjunction with the application for the dwelling. Therefore, in the event that planning permission were to be granted for the house we would also grant prior approval for the farm buildings. However, it goes without saying that the visual impact of these buildings would be minimised if positioned adjacent to the existing farm steading, as per common practice.

We wrote to Gail on 09<sup>th</sup> August 2021 (7 months ago) providing a detailed justification for the locational position of the buildings proposed. Furthermore and as you should be aware, there is already an extant prior notification approval for the erection of an agricultural building on the application site.

In terms of the planning application for the house, in order for us to be able to support this proposal in policy terms it must be demonstrated that justification exists in terms of both locational need and viability. As you will be aware, in such situations a labour requirement report from a suitably qualified agricultural body such as SAC would normally be submitted. Could this please be lodged along with a full set of accounts for the last 2 years to demonstrate that the agricultural element of the business is financially sound with a clear prospect of remaining so. Obviously, the business plan needs to demonstrate that the income from the business can also support the cost of the accommodation as well as the business premises and the workers income.

The SAC are consultants to the agricultural industry rather than any sort of body and as a consequence of that I am greatly surprised that you are advertising and promoting the engagement of their services to prepare a labour requirement report. That, to me is totally out of order and of huge concern. I have been preparing labour requirement assessments for the last twenty five years in support of applications for agricultural worker's dwelling houses. They

have been accepted in all Council areas where submitted including Aberdeenshire, Angus, East Ayrshire, East Lothian, East Renfrewshire, Fife, Highland, Midlothian, North Lanarkshire, Perth and Kinross, Scottish Borders, West Lothian and **South Lanarkshire**. This is the first time in those twenty five years that a Council has told me to engage another firm of consultants to prepare such a report implying that I wasn't suitably qualified. Both our client, who holds a first class honours degree in Agriculture and I are shocked and quite offended by this suggestion and I would suggest you retract it immediately. I would further add that summary accounts were submitted in support of the application.

I have, during the course of the last eight months drawn Gail's attention to various permissions for agricultural workers dwelling houses granted in South Lanarkshire, details of which you can access via the emails I have forwarded. Can you please confirm that all such applications were accompanied with '*a labour requirement report prepared by a suitably qualified agricultural body such as SAC*'; that they were accompanied by a full set of accounts for the two years previous to the applications made; and that they demonstrated that the income from the business on the back of which they were proposed supported the cost of the accommodation, the business premises and the worker's income. Please forward copies of the said reports and accounts in support of your response and the details of the relevant officials in your Council who are, using your term, '*suitably qualified*,' to assess labour requirement reports and other information submitted in support of such applications. I would like to liaise with them directly. However, I would point in advance of you responding to these points that I know for a fact that the applications referred to have not been supported by the level and extent of information now requested in association with our client's applications. I would appreciate an explanation as to why our client's applications are being treated so differently and not consistently with the others referred to. Please note that the requests for the information sought have been made under the Freedom of Information Acts and I would appreciate you forwarding it to the relevant officer for action.

I am assuming that there are no opportunities to convert an existing building on the steading but would need to discuss this with the case officer on her return. This query has clearly been responded to within information previously submitted in support of the application. You have advised earlier in your e-mail that you had spoken to the case officer. Can you please confirm if you have done so or not?

Indeed, has any consideration been given to the farmhouse being passed on to Mr Orr's son as part of the succession planning, also a common occurrence with the retiring farmer taking up residence nearby but not necessarily on the farm?

Please refer to Section 1.7 of the Statement submitted in support of the application. Your Council has granted a number of permissions previously to provide additional accommodation on the farm for retiring farmers. Details have been forwarded to Gail. I would further add as a note of interest at this stage that under the terms of the Draft National Planning Framework (Fourth) the Scottish Government are proposing, under Policy 31, to introduce a policy to provide for the erection of homes for the retirement succession of a viable farm holding. Is it your Council's intention to ignore such policy just as it has been to ignore policy in SPP which prohibits the use of occupancy conditions on agricultural worker's dwelling houses?

In any event, the striking and most questionable feature about this proposal is the distance of



the proposed house and buildings from the existing steading. It would normally be expected that any worker's dwelling would be located close to the existing steading. In the event that a further house can be justified, I would ask you to consider siting both the dwelling and buildings close to the existing building group in the interests of protecting rural amenity and minimising landscape impact.

This point has been responded to in our letter of 09<sup>th</sup> August 2021. Furthermore and as noted previously permission has been granted for the erection of an agricultural building on the site with no concerns expressed about landscape impact.

Locating the house in such a way would also be beneficial in terms of site access. I note that intervisible passing spaces are required but that there may be an issue in respect of your client's control over the requisite land. I would be pleased to hear your views in this regard.

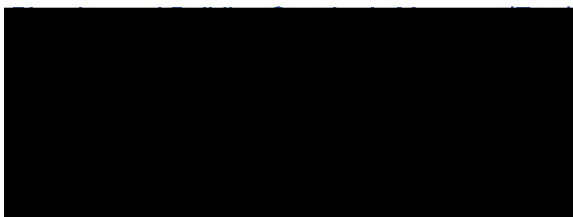
There are no issues with the passing places. Their locations have been agreed with Craig Lattimer who has also confirmed that the land required to form them forms part of the adopted road. Gail should be aware of this. Relevant correspondence in relation to this matter is accessible via the link.

I hope this is of some assistance and , as I say, we shall endeavour to process these applications to a conclusion without further delay.

I would re-iterate how disappointed I am with the level of service received from your Council in its progression of these applications – it's as bad as I've come across in 25 years of practice. I had hoped that your intervention would have reported some progress and moved matters on but to be perfectly honest I've come to the conclusion that the application has been lying idle for the vast majority of the time it has been with your department. That without any form of reasonable explanation is totally unacceptable and unbefitting of any planning profession.

Regards

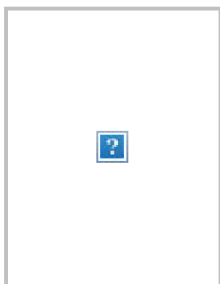
Bernard Darroch



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