

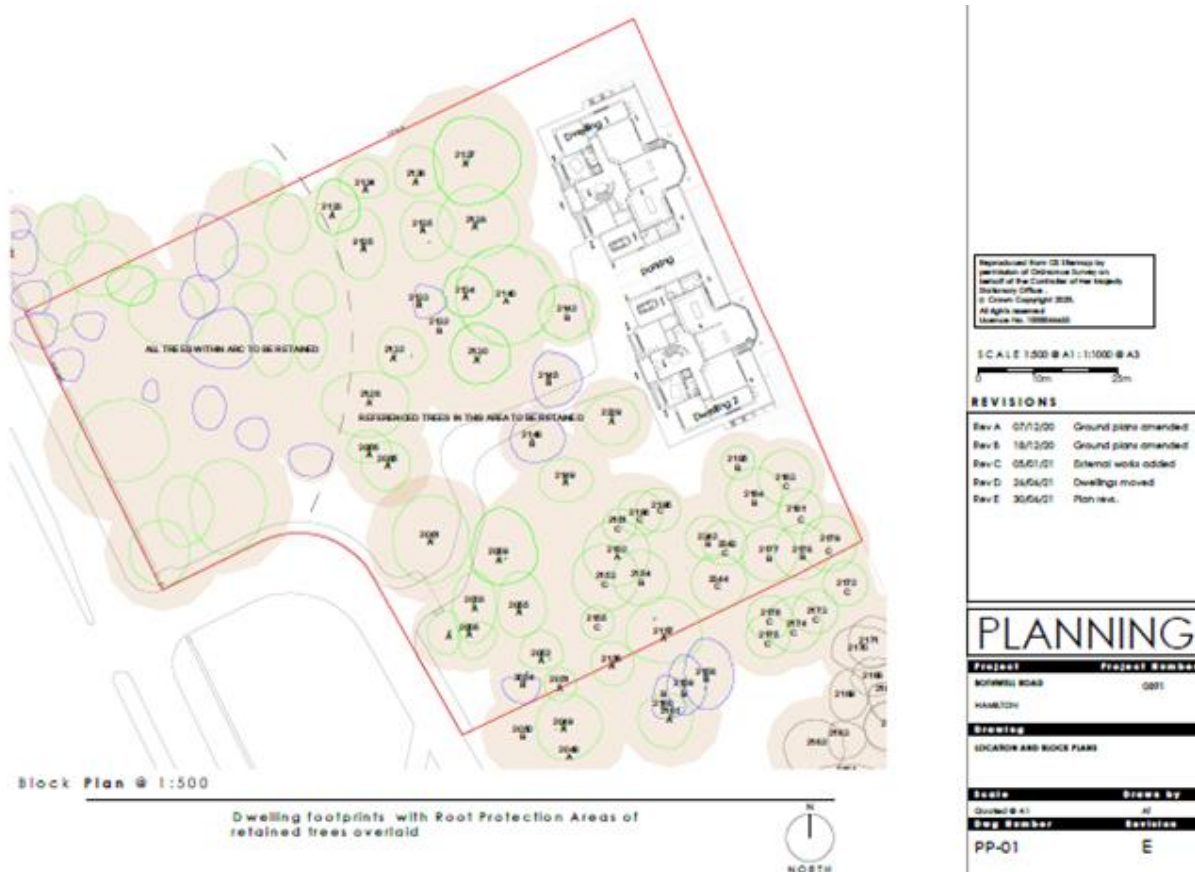
04.08.2022

FAO: Local Review Board Members
Executive Director (Corporate Resources)
Council Headquarters
Almada Street
Hamilton
ML3 0AA

Dear Members

RESPONSE TO REPRESENTATIONS - Refusal of Erection of Two Dwellinghouses with Associated Studio Flats Above Attached Garage, Raised Decking At Rear and Formation Of Access at Land 120M Northeast of 55 Bothwell Road – Planning Application Reference: P/21/0029

The Applicant has felt it necessary to respond to the representations received on Friday 22nd July 2022 regarding his application to construct two dwellings as shown on the site layout below, at Bothwell Road, Hamilton. As well as the information contained within this Letter and appended to it, Members are also directed to the Applicant's Statement of Case submitted previously.



Pre-prepared/Manufactured Objections - It is noted by the Applicant that the above mentioned representations, akin to a great many other objections submitted in relation to his planning application, are standard pro-forma objection letters. It is acknowledged by him that the small number of undoubtedly highly motivated instigator(s) of these mass-produced objections are within their rights to have done what they have. However, it is highly questionable whether many of the parties that have been asked to sign these pre-prepared representations would themselves have been sufficiently motivated to prepare and submit objections on their own. It is well known within Planning Authorities that this method of encouraging objection, produces an artificially inflated number of objections and as such they carry less weight than the self-penned variety.

Greater Acceptability of Proposal Compared to Recent Developments Adjacent Bothwell Road - The Applicant also wishes to highlight that some of the representations have come from parties who live in the flatted housing scheme adjacent Hamilton Racecourse. Many of these flatted blocks are highly visible from the surrounding area, in particular Bothwell Road. They are also built upon what was mature woodland, which was completely decimated, to make way for these flatted housing schemes. Therefore, there appears to be a degree of selective memory being employed by certain objectors and also the Planning Authority when inferring that the Applicant's proposal will be unsightly, damaging to amenity and the environment. By comparison, the Applicant's proposed two houses will be completely invisible when viewed from Bothwell Road. There will be no unacceptable impact on the landscape character of the area. There will be no unacceptable impact on the visual amenity of the wider area due to tree loss. It will result in the loss of only secondary poor quality self-seeded trees and will introduce woodland management and other measures which will result in a net environmental gain for the area, including improvements to biodiversity (all of which will be addressed later in this letter). Further, if the development is permitted a payment will be made by the Applicant to Hamilton College in return for access rights to the application site, thereby benefiting an important educational establishment which is a registered charity.

There is Already a Presumption in Favor of Development - Members' attention is drawn again to a very important point. The 2 houses proposed will be constructed within the eastern section of the Site within land zoned as "General Urban Area" where there is a **presumption in favour of development** (Policy 3, LDP2). This is planning fact. This part of the woodland area is of poor quality, hence we assume why it was zoned within the general urban area and not part of the Council's identified green network.

There Will Be No Adverse Impact on the Green Network – The objectors appear to have concerns about the proposal's adverse impact on the Green Network. The Applicant draws Member's attention to the fact that the area where the 2 proposed houses are located is outwith the Green Network. The remaining woodland is within the Green Network and will be protected from construction works, enhanced via a Woodland Management and Biodiversity Plan and remain protected by a TPO.

No Adverse Traffic Impact – It is noted that the objectors have stressed concerns about the impact of increased traffic on the junction with Bothwell Road, attributable to the Applicant's proposed two houses. The houses will share the Hamilton College access and result in an almost imperceptible percentage increase in traffic using that junction. Further, the Roads Authority are content with the proposals.

There Will Be No Adverse Impact on the Future Designation of the Site as Part of a Local Nature Conservation Area – NatureScot (Scotland's Nature Agency) indicates that a "*Local Nature Conservation Area's designation signals to planners and developers where there are natural features of some merit. It encourages them to consider early on these sensitive sites and opportunities to enhance the local environment.*" Further, they state that "*The designation*

doesn't affect how landowners and land managers manage the land within an LNCSSs on a daily basis."

The possibility of the site being designated as part of a Local Nature Conservation Area is not adversely affected by the proposal, indeed it is enhanced via the Applicant's proposed Woodland Management Plan and Biodiversity Strategy (see comments below).

Woodland Management Plan and Biodiversity Strategy – In this instance the Applicant is proposing to implement an agreed Woodland Management Plan and Biodiversity Strategy which will enhance the local environment. This will change positively how the owners manage the land and will be at their entire cost. To show the sincerity with which this proposal is made, a Woodland Management Plan and Biodiversity Strategy is appended to this letter. The terms of the Woodland Management Plan and Biodiversity Strategy would be agreed with the Planning Authority.

Funding Problems in Relation to Woodland Management

As the Woodland Management Plan and Biodiversity Strategy indicates many suburban/urban woodlands are in disarray due to lack of management, and the woodland in question is a perfect example of that. The mature woodland currently lacks any positive management, resulting in the current depauperate ground flora and the spindly drawn seedling and sapling trees (mainly of non-native species), starved of light by dense shading, much of which is from non-native trees.

Essentially, woodland management **costs money** and there needs to be a financial support for such management which is currently sadly missing. The Applicant's proposed small-scale development will bring in much needed money for management of the woodland resource (see comments below).

Woodland Management and Biodiversity Works Secured by Applicant's Financial Offering

It is understood that the Applicant had offered to transfer the remaining woodland area to the Council or a community body. The practicalities/delivery of that could prove difficult, mainly because such parties appear unlikely to want the land.

Accordingly, it is proposed again by the Applicant that the woodland remains in private ownership and that he makes monies available to complete agreed woodland management and biodiversity improvement works. This obligation and financial commitment can be secured legally for example via a s.75 agreement ensuring that works are implemented. It is possible for example that the monies could be held in an Escrow account which can be drawn down upon by the Council if needs be.

Limited Impact on Trees

The project includes removal of two mature trees (including a non-native horse chestnut that is in poor health (Category U) and a native ash (Category C), which is in poor form, as well as an area of neglected hawthorn-dominated scrub woodland to make way for the new residential development. At least 86% of the woodland in the Application Site will remain and be positively managed in the long-term.

The Remaining Woodland will be Protected by the Existing Tree Preservation Order

The entire woodland is protected by a Tree Preservation Order (TPO). That is a blanket Woodland TPO of the type often used for simplicity to cover an entire area of woodland, but it does not recognise or discriminate between good areas and bad areas of woodland.

The vast majority of the woodland will remain after construction of the 2 dwellings (circa 86%) and will still be protected by the TPO. Also, please note that strict tree protection measures



will be implemented to ensure that no trees within the remaining woodland can be damaged by the Applicant's proposed construction works.

Woodland Biodiversity/Conservation

Baseline ecological surveys identified roosting bats and small numbers of breeding birds as ecological constraints at the site and confirmed that the habitat structure was currently **poor for wildlife** with dense shade eliminating the ground flora and suppressing the understory in many areas of the woodland.

The Woodland Management Plan and Biodiversity Strategy proposes appropriate long-term woodland management. The existing woodland resource will then benefit through pro-active management, and biodiversity will benefit from the habitat enhancement through actions such as establishing new native trees and shrubs, installation of bat and bird boxes, and creating dappled lighting so that the ground flora can be encouraged through the planting of bluebell and other wildflower bulbs and seed, and so develop a woodland that is not only a visual asset for the local community but will help the Local Authority to fulfil its statutory duty to biodiversity.

Protection of Bats – Bats Will Not Be Adversely Affected

The Applicant submitted an Ecology Report in support of his application which included suggested works in these regards. This indicated that bats were unlikely to be problematic. Recognising that the issue of bats is an important one, a Bat Roost Survey for the proposed development site was undertaken, a copy of which is appended to this letter. That report presents the findings of the surveys and has a Bat Protection Plan. That will guide the developmental process to ensure no harm comes to any roosting bat and ensures that a firm commitment to appropriate bat roost compensation is provided before, during, and after development.

A considerable extent of woodland will remain around the development once complete which will ensure that foraging habitat for bats will continue to be present. This will be further enhanced by woodland management that will open up space within the woodland by understory thinning, which will enhance the woodland for use by foraging bats in the long-term.

Toolbox Talks – Breeding Birds and Bats

To further prove the Applicant's sincerity on the issues of breeding bird and bat protection/enhancement, Toolbox Talk documents regarding breeding birds and bats have been appended to this letter, which would be provided to the contractors involved in the construction of the proposed two houses.

Title to the Land – It is noted that objectors refer to legal matters relating to the Title Deeds to the application site which they say might restrict development. The Applicant makes no comment on that other than to say any such Title restriction(s), which may or may not exist, are not material planning considerations and should be disregarded.

Concluding Remarks - Given the foregoing it is apparent the proposal complies with planning policy.

The proposal is justifiable in planning terms on its own merits and should be granted planning permission.

There are no objections to the proposal from SLC Roads Development Management Team, SLC Environmental Services or Scottish Water.

The proposal would not adversely affect the integrity, amenity, landscape and conservation value of the woodland in which the application site is located. **It therefore complies with LDP2 Policy NHE13 - Forestry and Woodland.**

The proposal would not result in an unacceptable loss of woodland, which is a protected local resource and of high conservation value, and would not likely lead to a permanent net loss of biodiversity. **It therefore complies with LDP2 Policy NHE20 - Biodiversity.**

The proposal has due regard to the landscape character of the area. It would not have a negative and unacceptable impact on the visual amenity of the wider area primarily as a result of tree loss. It would not have an adverse and irreversible impact on the green network and future designation of the site as part of a Local Nature Conservation Area. **It therefore complies with LDP2 Policy 5 - Development Management and Place Making and Policy 13 - Green Network and Greenspace** in these (and all other regards).

The proposal also complies with the below planning policies:

Policy 1 - Spatial Strategy
Policy 2 - Climate Change
Policy 3 - General Urban Areas and Settlements
Policy 14 - Natural and Historic Environment
Policy 15 - Travel and Transport
Policy 16 - Water Environment and Flooding
Policy NHE14 - Tree Preservation Orders
Policy DM1 - New Development Design

Yours sincerely

Mark McGleish
CERTUS

[REDACTED]