

Derek Scott Planning

Chartered Town Planning and Development Consultants



Our Ref: ep694/2022/008/agrihouse/DS

26th August 2022

Local Review Body
South Lanarkshire Council
c/o Executive Director (Corporate Resources)
Council Headquarters
Almada Street
Hamilton
ML3 0AA

To whom it may concern

REQUEST TO SOUTH LANARKSHIRE COUNCIL'S LOCAL REVIEW BODY TO REVIEW THE DECISION OF THE APPOINTED PLANNING OFFICER TO REFUSE PLANNING APPLICATION REFERENCE NUMBER P/21/1210 WHICH HAD SOUGHT PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF AN AGRICULTURAL WORKER'S DWELLING HOUSE AT HYNDFORD MILL COTTAGE, CHARLESTON PARK FARM, COBBLEHAUGH ROAD, LANARK

Thank you for your e-mail of 12th August 2022 in connection with the above-mentioned Review Request and for your invitation to respond to the representations submitted by Mr. Andrew Russell

We have set out in red on the attached document our responses to the various points made within those representations.

Please note that we reserve the right to respond to any further submissions made by third parties or by the Council's Planning Department in advance of the determination of the Review Request by your Council's Review Body.

Kindly acknowledge receipt and registration of this letter by return.

Yours faithfully

Derek Scott

cc. Firm of Thomas Orr

Response by Derek Scott Planning on behalf of the Firm of Thomas Orr to the representations submitted by Mr. Andrew Russell of Leapark, Cobblehaugh Road, Lanark in connection with the Local Review Body Request relating to Planning Application Reference Number P/21/1210

My previous comments and concerns over the proposed development stand. I am however pleased to see at least that should the development go ahead, passing places will be introduced along the Cobblehaugh Road which would ease concerns and reduce increased risks I expressed around public safety

Response – Whilst the Council's Roads and Transportation Department recommended that the existing access to the site be upgraded through the provision of passing places, the Planning Officer's Report of Handling (See **Document TO4**) notes that the failure to provide such passing places would not result in a road safety issue which would warrant the refusal of the application. In other words they are not required. That being the case, the request for the provision of passing places is not sufficiently related to the proposed development to comply with the terms of the relevant tests outlined in Scottish Government Circulars 4/1998 on the 'Use of Conditions in Planning Permissions,' or 3/2012 on 'Planning Obligations and Good Neighbour Agreements.'

I support the Planning Officers response that any new dwelling house deemed necessary to support the applicant's ambitions is 'consolidated within the existing building group;' as the applicant has failed to provide adequate supporting information to justify the dwelling house being proposed in a location some distance away from the existing building group position. The location of the proposed dwelling house is fundamental to my concerns which would be much reduced should the dwelling house be constructed within the current steading area.

Response – The letter provided by SAC Consulting (See **Document TO6**) in response to the reasons for the refusal of the application confirms, inter-alia, that there is a need for an additional dwelling house on the farm; and that the dwelling house proposed, should, in the interests of good animal husbandry and biosecurity considerations, be located next to the agricultural buildings approved under the terms of Prior Approval Application Reference Number P/21/1320 (Refer to **Document TO2**). The Council's Planning Department have confirmed to us in writing that it relies on reports and opinions prepared by independent organisations such as the SAC in its consideration of applications of this nature as a 'suitably qualified' member of staff to assess labour requirement reports and other supporting information submitted in support of such applications is not available within the Council. The erection of the dwelling house required, within the existing building group, would not provide the levels of animal husbandry and biosecurity required in association with the proposed use of the agricultural buildings approved under Prior Approval Application Reference Number P/21/1320.

Mr. Russell claims that the location of the proposed dwelling house is fundamental to his concerns. Such claims contradict the outcome of a discussion my client (Mr. Orr) had with Mr. Russell earlier this week during which he advised Mr. Orr that he had no concerns about a single house being erected in the location proposed. His objection to the application relates to concerns he has that a future application will seek permission for a group or hamlet of houses in this location. Our client, wishes to assure both Mr. Russell and the members of the Local Review Body that he has absolutely no intention of submitting an application for the erection of more than one house on this site and would be happy to enter into a legal agreement to this effect.

I'm sure, should the Planning Authority's decision be reversed or that if any dwelling house is eventually permitted on the applicant's landholding. That occupancy of the property will be restricted to a person employed local in agriculture.

Response – Whilst our client has no objection in principle to the imposition of an agricultural occupancy condition, such conditions do not come without their problems particularly in terms of acting as a restriction to attracting mortgage funding from lending institutions. This was recognised as an issue by a former Chief Planning Officer in the Scottish Government, who in November 2011 wrote to all Planning Authorities in Scotland advising them that '**The Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided.**' These advises were subsequently cemented in Scottish Planning Policy in 2014 where Paragraphs 81 and 83 state the following:

81. *In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:*

- *guide most new development to locations within or adjacent to settlements; and*
- *set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.*

83. *In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:*

- *encourage sustainable development that will provide employment;*
- *support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;*
- *include provision for small-scale housing⁴¹ and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;*
- *where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies;*
- ***not impose occupancy restrictions on housing.***

Whilst Mr. Russell's views are no doubt well intentioned it is clear from the above that they fly in the face of Government Policy and as such cannot be accepted.

I'd also like to ensure that the Planning Local Review Body is aware that in 2011, Mr. Orr, applied to and received consent from the planning authority to remove a condition relating to agricultural occupancy attached to the consent for a second dwelling house constructed on the applicant's landholding (refer to planning application reference no. P/LK/82/101). Within the submission to remove the condition, the applicant explained that 'the nature of animal husbandry and working practices on the farm had changed' and accordingly, labour requirements had reduced to around one. Consent to remove the agricultural clause from that dwelling house was granted as a result. Around ten years later, the applicant appears to have completed a full 'U-turn' and is now arguing that animal husbandry demands not only a huge increase in labour requirements, but that the dwelling house needs to be immediately adjacent to the new agricultural buildings. Whilst I am not qualified to comment formally, I would be very surprised if farming practices, and in particular animal husbandry, have changed by this degree in such a short timeframe to warrant this change of stance by the applicant.

Response – Mr. Russell is correct in pointing out that an agricultural occupancy condition was removed from the property known as the 'Arbory' in 2011. That particular property is an isolated bungalow located some 1.3km (by road) to the south of the existing buildings at Charleston Park and is no longer available. Agricultural practices and those specific to our client have changed quite substantially in the last ten years. Emerging from the significant financial crash of that era, our client has diversified his business and expanded it considerably compared to that which existed at the time – something he should be supported and applauded for rather than criticised. As the labour requirement analysis outlined in the Planning Statement submitted in support of the application (See **Document TO1g**) demonstrates and as confirmed by SAC Consulting in its letter (See **Document TO6**), the activities now undertaken on the farm justifies the erection of a new dwelling house. This must, due to animal husbandry and biosecurity considerations, be located next to the agricultural buildings approved under Prior Approval Application Reference Number P/21/1320. With respect to Mr. Russell he has at least admitted in his submissions that he is not qualified to formally comment on various matters relating to our client's application. Given the comments he has made that is very evidently the case.

I am seriously concerned that Mr. Orr is planning a second farm steading. I am also concerned if permission is granted for a second dwelling house, that at some time following the succession process that Mr. Orr describes, one or other of the dwelling houses may be deemed unnecessary and a request to remove agricultural occupancy restrictions is submitted once again.

Response – As noted previously the use of agricultural occupancy restrictions is prohibited by Scottish Planning Policy. Setting that important consideration aside, the information submitted in support of the application clearly demonstrates that there is a requirement for an additional dwelling house on the farm and that the dwelling house required, due to animal

husbandry and biosecurity considerations, must be provided in close proximity to the agricultural buildings already approved by the Council under Prior Approval Application Reference Number P/21/1320.

Signed

A black rectangular box redacting the signature of Derek Scott.

Derek Scott

Date

26th August 2022