

Report

Report to:	Hamilton Area Committee
Date of Meeting:	14th February 2007
Report by:	Executive Director (Enterprise Resources)

Application No	HM/06/0528
Planning Proposal:	Alterations and Change of Use From Former Poultry breeding Site to 2 Self Catering Living Accommodation

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Mr David Kilgarif & Ms Angela Kilgarif
- Location : Former Poultry Breeding Site
Manse Brae
Dalserf

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Refuse Detailed Planning Permission based on reasons listed overleaf

2.2 Other Actions/Notes

- (1) The Area Committee has delegated powers to determine this application.
- (2) If Committee agrees to refuse the planning application, in the event that the unauthorized residential use is not discontinued within two months of this decision, and works undertaken to ensure that the buildings change to be used as ancillary to the main dwellinghouse within 3 months, it is recommended that enforcement action be taken

3 Other Information

- ◆ Applicant's Agent: None
- ◆ Council Area/Ward: 51 Dalserf
- ◆ Policy Reference(s): **Hamilton District Local Plan**
Policy EN1a – Greenbelt
Policy EN1c – Area of Great Landscape Value
ED9 – Tourist Development
Policy DC1 – Development Control – General
South Lanarkshire Planning Policies
Policy SLP1– Greenbelt
Policy SLP6 – Development Control General
South Lanarkshire Local Plan – Finalised Plan
STRAT 3 – The Greenbelt

ENV28 – Regional Scenic Area and Area
of Great Landscape Value
ENV4 – Protection of the Natural and
Built Environment
ECON 9 – Tourist Development Policy
ECON 10 – Tourist Facility Development
ECON12 – Tourist Accommodation Policy
DM1 – Development Management

- ◆ Representation(s):
 - ▶ 4 Objection Letters
 - ▶ 0 Support Letters
 - ▶ 1 Comments Letter
- ◆ Consultation(s):

Scottish Water

Environmental Services

Roads and Transportation Services (Hamilton Area)

S.E.P.A. (West Region)

Power Systems

TRANSCO (Plant Location)

Greater Glasgow and Clyde Valley Tourist Board

Planning Application Report

1 Application Site

- 1.1 The application site relates to the north western section of the rear garden currently associated with the existing residential dwellinghouse known as Woodhall, situated adjacent to Manse Brae, Dalserf, on the outer edge of the village of Dalserf. The area of land in question is “L” shaped and measures approximately 1100sq.m.
- 1.2 The site is accessed directly from Manse Brae, a classified road, from a narrow road frontage situated between the old school house and the dwelling, Woodhall, which adjoins the site to the east. Immediately adjoining the site to the north is the residential property known as Rowanbank whilst to the west lies agricultural land with the Dalserf Burn running along the rear of the application site. To the south there is a small ribbon development of 7 dwellinghouses

2 Proposal(s)

- 2.1 The proposal, which for the most part is retrospective, involves the applicants seeking planning consent for the proposed change of use of the rear garden ground and associated recently constructed domestic outbuildings to tourist accommodation by providing two self catering chalets for holiday accommodation with associated parking and direct independent access from Manse Brae. Although the applicant has not formally requested the sub-division of the existing planning unit, this proposal would in effect lead to that.
- 2.2 The applicants have stated that the proposal is for a change of use of “poultry breeding site” to provide 2 self catering residential units which will be used as tourist accommodation from 1st March to 31st October each year. The applicants further state that the site is unsuitable for any other agricultural use and that the land would otherwise be disused. However, it should be noted that the poultry breeding business at this location ceased a number of years previously (approximately 12-15 years) and the site was incorporated as additional garden ground into the curtilage of the dwelling known as Woodhall.
- 2.3 In July 2004 the applicant submitted a planning application for change of use of the existing garage/hatchery, which was situated within the current application site for residential dwelling. The proposal was refused in October 2004 and the decision upheld at appeal in December 2004. Shortly after the applicants lost their planning appeal for the proposed change of use of garage/hatchery to residential dwelling. The applicants constructed 4 new built single storey structures, 2 they stated were as replacements for existing structures which were already on site (the poultry breeding house and the old school boys toilet block) with 2 additional buildings which the applicant stated were to be used as a summer house and a store. These new buildings together with the existing garage/hatchery (which measures 9.6m x 7.7m) identified on the plan as unit A brings the total number of outbuildings within the application site to 5.
- 2.4 The 4 recently constructed single storey units form the basis of this application. The dimensions of these units are:
 - i) unit b – 6.84m x 4.15m (applicant stated was for use as a summer house)
 - ii) unit c – 5.35m x 3.6m (replacement toilet block) which the applicant stated was to be used as a storage area
 - iii) unit d – 6.84m x 4.15m (applicant stated was to be used as a storage)
 - iv) unit e – 8.77m x 3.77m (replacement shed formerly breeding house to be used as storage)

The external finishes of the units are roughcast and concrete roof tiles with UPVC windows and doors. There is independent parking for the units within the site and both units have their own private patio area and gardens. It is now the applicants intention to link together 3 of the outbuildings (located in the north-west corner of the site) with a flat roofed covered walkway to form 1 large self contained unit, which will have a floor area of approximately 80sq.m. The remaining unit (located in the south west corner of the site) will provide a smaller self contained unit with a floor area of approximately 32sq.m.

- 2.5 Prior to the erection of the buildings under consideration, information supplied by the applicants specified that the buildings within their garden were to be new and replacement buildings which would be less than 4 metres in height and were to be used as a summerhouse and storage “incidental to the enjoyment of the dwelling”. On this basis the applicants were informed that the outbuildings were deemed to be “permitted development” under the terms of the current legislation providing the purpose of the units was to be “incidental to the enjoyment of the dwellinghouse” in accordance with Class 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and not as a separate dwelling unit nor as part of a commercial undertaking. However these buildings were never utilized as they were originally intended, for ancillary residential use, but were constructed as purpose built independent self-catering living units. When it became apparent that unauthorised works has taken place with regard to the proposed use of the self-catering (s.c.) units and that the applicants daughter was living in one of them, the applicants were advised by the Planning Authority that the works were unauthorised. Subsequently this planning application has been submitted in an attempt to regularise the position.
- 2.6 It is intended that the original access and driveway to the existing dwelling will serve the application site whilst the recently constructed additional vehicular access approved under planning reference HM/05/0063 on the 17th March 2005 will serve the existing house.
- 2.7 The applicants have submitted information in support of the application and have stated that the proposal is justified as the accommodation is set in the heart of the Clyde Valley and is an ideal location for visitors to explore the local area as well as being easily accessible for Glasgow, Edinburgh and the rest of Lanarkshire, in addition there is a “definite lack of quality self catering accommodation in the Clyde Valley”. The applicant is of the opinion that the proposal will not greatly affect noise or traffic in the area as there will be a maximum of 2 visiting cars at any one time each having independent parking within the site accessed by a private entrance.
- 2.8 The applicant further states that the business would benefit the community by providing employment (1, full time and 1 or 2 part-time positions). This is based on an expected occupancy of 65% capacity (which the applicant states is Scotland’s average occupancy rate for self catering accommodation), between the period 1 March and the 31 October. In revenue terms the applicant expects to produce a pre-tax income of £24,500 per annum based on the average accommodation spend of £77 per night per apartment.

3 Background

3.1 Local Plan Policy

3.1.1 The application site is located in an area designated as Greenbelt in the adopted Hamilton District Local Plan. The site is also identified in the Local Plan as being within an Area of Great Landscape Value. The relevant policies covering the site are Policies EN1a – Greenbelt and EN1c Area of Great Landscape Value.

3.1.2 Policy EN1a states that there will be a strong presumption against development in the Greenbelt unless it is shown to be necessary for the furtherance of agriculture or other uses appropriate to the Greenbelt. The policy does go on to state that proposals for the rehabilitation or change of use of disused or redundant buildings for residential purposes will be considered favourably if they comply with all of the following criteria;

- a.) It can be demonstrated that the building is no longer required, appropriate or marketable for agricultural purposes or other appropriate countryside uses.
- b) The building is of a traditional design or of architectural/historical interest.
- c) The building is structurally sound and largely intact.
- d) The building is of a size capable of accommodating the proposal without the need for major extensions/alterations. Alterations must be sensitively designed to retain the traditional character of the building whilst landscaping, car parking and boundary treatments must be in keeping.
- e) The site can be safely accessed and provided with water, sewerage and other services.
- f) The proposal will not be detrimental of local amenity or traffic safety and is comparable with existing adjoining land uses.
- g) There are no adverse impacts on natural or built heritage features.

The presumption in favour of rehabilitation does not extend to proposals which differ dramatically in character from the existing buildings or to the replacement of derelict or dilapidated buildings.

3.1.3 Policy EN1c states that within areas identified as being of Great Landscape Value the Council will exercise particular care in accessing any proposal, even when they conform with Greenbelt Policy.

3.1.4 Policy ED9 – Tourism Development is also relevant and states that there will be a presumption in favour of developments which improve the range and quality of tourist attractions within the district provided that they are consistent with appropriate District Local Plan Policies and are of a scale and nature appropriate to the location. This policy does not therefore override the strict presumption against development that applies within Greenbelt locations.

3.1.5 In addition Policy DC1 – Development Control – General of the adopted Hamilton District Local Plan requires all planning applications to take due regard to the local context and built form of the area. Proposals should take cognisance of scale, position and materials of surrounding buildings and landscape and should be assessed having regard to the following criteria

- a) the local context
- b) accessibility
- c) safety and security
- d) layout and form
- e) exterior elevations
- f) landscape treatment
- g) environmental impact
- h) any extant design guidance prepared by the Council.

3.1.6 In relation to the South Lanarkshire Planning Policies SLP1 reiterates the policy contained within Policy EN1a of the adopted Hamilton District Local Plan, which is detailed in section 3.1.2 above. In addition to the general presumption against development which applies in the Greenbelt (unless it is in the interest of agriculture, horticulture etc or other uses appropriate to the Greenbelt), Policy SLP1 contains a guidance note relating to appropriate uses within the Greenbelt. This note advises that tourist related developments are acceptable in principle in the Greenbelt however tourist/visitor accommodation relates to conversion/extension of existing or redundant buildings and does not extend to new build proposals (unless associated with a tourist/visitor attraction).

3.1.7 South Lanarkshire Planning Policy SLP6 – Development Control General would also apply. This policy requires proposals to have respect to the character of existing dwellings and the wider area in terms of their scale, design and materials. Proposals should not dominate or overwhelm the existing dwelling or neighbouring dwellings and should not adversely affect neighbouring properties in terms of privacy.

3.1.8 In relation to the South Lanarkshire Local Plan (Finalised), the relevant policies covering the site in this instance are :

Policy STRAT3 - The Green Belt and Urban Settlements in the Green Belt
Policy ENV28 – Regional Scenic Area and Areas of Great Landscape Value
Policy ENV4 – Protection of the Natural and Built Environment
Policy ECON9 – Tourist Development Policy
Policy ECON10 – Tourist Facility Development
Policy ECON12 – Tourist Accommodation Policy
Policy DM1 – Development Management

3.1.9 Policy STRAT3 – The Green Belt and Urban Settlements in the Green Belt states that the Council will strongly resist all development except where it can be shown to be for the furtherance of agricultural, forestry, horticulture, recreation or other uses appropriate to the Greenbelt. In addition all development should seek to enhance the environmental quality of the area.

3.1.10 Policy ENV28 – Regional Scenic Area and Areas of Great Landscape Value states that development will only be permitted within these areas if it satisfies the requirements of policies STRAT 3-6 (where appropriate) and can be accommodated without adversely affecting the overall quality of the designated landscape area.

3.1.11 Policy ENV4 – Protection of the Natural and Built Environment states that the Council will assess all development proposals in terms of their effect on the character and amenity of the natural and built environment. In doing so the Council will seek to safeguard sites defined as “Hierarchy of Natural and Built Heritage Sites”. This covers areas identified as being within an Area of Great Landscape Value” covered by Policy ENV28. Within such areas of local/regional importance, development which would affect these areas will only be permitted where the integrity of the protected resource will not be undermined.

3.1.12 Policy ECON 9 – Tourist Development Policy, although relating mainly to visitor attractions, states that the Council will support proposals to develop and expand tourism in South Lanarkshire consistent with the objectives of the Local Plan and the

Tourism Action Plan and the needs of the local area. All proposals will be assessed against the following criteria.

- a) Impact on the natural and/or built environment
- b) Infrastructure implications including water and sewerage provision
- c) Accessibility by public transport, cycling and walking, including disabled access
- d) Traffic impact
- e) The relevant development control considerations.

3.1.13 Proposals may also be assessed against Settlement and Area Strategy policies i.e. Policy STRAT3 – The Green Belt and Urban Settlement in the Green Belt and therefore the terms of Policy ECON 9 do not override the strict presumption against development which applies in the Green Belt.

3.1.14 Policy ECON 10 – Tourist Facility Development supports proposals for new and enhanced tourist attractions and facilities in the Clyde Valley as defined by Policy STRAT7 – Strategic Green Network Policy, which supports the creation of a framework of accessible green spaces and corridors.

3.1.15 Policy ECON12 – Tourist Accommodation states that favourable consideration will be given to proposals for tourist accommodation where they comply with Local Plan Land Use Policy and subject to criteria below:

- i) For new tourist accommodation in rural areas preference will be given to the renovation or conversion of existing buildings rather than new build. Where new build is proposed a high standard of design and finish will be expected.
- ii) For tourist accommodation in rural areas a supporting business case is required to justify the economic sustainability of the proposal
- iii) Proposals for chalets and static caravan units will be considered in terms of their impact on the environment, infrastructure and services
- iv) Proposals for touring caravan sites will be assessed with regard to
 - Impact on the environment (particularly visual amenity and pollution)
 - Adequacy of infrastructure and services
 - Impact on the local road network.

This policy does not override the Green Belts strict presumption against development.

3.1.16 Policy DM1 of the South Lanarkshire Local Plan (Finalised) reiterates Policy DC1 of the adopted Hamilton District Local Plan which is detailed in section 3.2 above.

3.2 Relevant Government Advice/Policy

3.2.1 SPP 21 - Green Belts - states that a strong presumption against inappropriate development in green belts is an established part of green belt policy and that green belt policy should provide clarity and certainty and once in place greenbelts should be robustly protected.

3.2.2 The Scottish Development Department Circular 24/1985 – “Development in the Countryside and Greenbelts” forms the basis of Greenbelt policy at both strategic and local levels. Current national policy detailed in the Circular reinforces that great importance is attached to the protection and preservation of existing Greenbelts and that development within Greenbelts should continue to be strictly controlled to establish confidence in their permanence.

3.3 Planning Background

3.3.1 There are a number of previous planning applications which relate to this site, as follows:

- a) HM/99/0019 – The previous owner, Mr Jack Ferguson made application to the Council for the removal of the agricultural occupancy condition which was attached to the planning consent for the original dwelling, granted under planning reference HN/80/56. The owner was 75 years old and no longer operated the poultry business, all attempts to market the property with the occupancy condition attached had failed. This application was approved on the 18th August 1999.
- b) HM/99/0491 – An application for the formation of house plot (outline) was refused on this site on policy grounds on the 8th December 1999. The proposal was regarded as clearly contrary to Greenbelt policy and no valid justification had been submitted. The nearby property at 5 Manse Brae had a similar application refused on similar grounds a few months earlier on the 15th September 1999.
- c) HM/04/0332 – Application for the erection of fencing (which had been partially erected) and the creation of an additional vehicular access was refused planning consent by the Council on the 6th October 2004. The applicants appealed this decision in December 2004. The Reporter sustained the decision with regard to the fence and dismissed the decision with regard to the creation of a vehicular access.
- d) HM/04/0655 – An application for the conversion of the existing garage/hatchery to dwelling was refused by the Council in October 2004 on the grounds that the proposal was contrary to policy EN1a and DC1 of the Hamilton District Local Plan and SLP1 and SLP6 South Lanarkshire Planning Policies. This decision was upheld on appeal on 20th December 2004.
- e) HM/05/0063 – A further application for planning consent for the formation of a new vehicular access was submitted in February 2005. The Divisional Engineer granted a relaxation with regard to the height of the front boundary wall which was allowed to remain at 1.3 metres instead of the normal 1.05 metres. The position of the access was also amended to meet visibility requirements and was now consistent with the terms of the reporters decision letter relating to planning application HM/04/0332 detailed in Section 3.8(c). As such the access was able to meet the sightline requirement and consent was granted by the Council on the 17th March 2005

3.3.2 In addition as detailed in Section 2 the applicant has recently erected 4 single storey outbuildings within the curtilage of the dwelling which are the subject of this application. The applicant stated the outbuildings were new and replacement buildings for private residential use incidental to the enjoyment of the dwelling as such the applicant received written consent from the Council that under the terms of the current legislation planning permission was not required.

4 Consultation(s)

- 4.1 **Roads and Transportation Services** – Have stated that at present there is insufficient visibility when leaving the property at Manse Brae and that due to the proposed intensification of use, the visibility splays at the existing access will require to be improved to 2.5m by 90m. These alterations to improve the existing access in order to provide the required visibility splays within the site can be achieved by removing a section of the existing front 1.3m boundary wall or if this is unsuitable the new recently constructed vehicular access which has the required visibility splay could be used to service the proposal.

Response: It is noted that visibility requirements can be achieved. The above comments will be taken into consideration when reaching a final decision.

- 4.2 **SEPA** – have objected to the proposal as the applicant has connected the foul drainage into the existing septic tank which currently serves 4 properties. This septic tank has insufficient capacity to treat the additional volume of sewage effluent arising from these 2 self catering units and SEPA will not permit any additional sewage effluent into this system. The applicant has connected the discharges from the two units into the septic tank without authorisation. SEPA has written to the applicant informing him that the discharges from the two units are illegal discharges and have given the applicant three options to remedying the situation with regard to disposal arrangements for foul drainage from the site. SEPA has requested that the applicant respond within 14 days as to which method is to be utilised by the new buildings. To date no response has been received from the applicant.

Response: Noted. It is a planning consideration to ensure that proper drainage can be achieved in respect of the development. The applicants have failed to provide such confirmation. Whilst the connection to the septic tank is a private matter it should be noted that the adjoining residents have advised that permission would be refused for access to their land to undertake any works required by SEPA, as they are concerned that they could be held jointly liable for any breach of SEPA regulations in respect of the applicants' actions.

- 4.3 **Scottish Water** – Have no objection to the proposal as they have sufficient capacity to service this proposed development. They advised that the siting of any septic tank should allow easy access for emptying by tanker

Response: Noted.

- 4.4 **Environmental Services** – commented on the proposals and suggested a number of conditions relative to noise, construction hours of operation and confirmation of the application to Scottish Water and SEPA. Details of the storage and uplift of waste also needs clarified.

Response: Noted, if appropriate these issues can be addressed through the imposition of conditions. However it should be noted that Environmental Health has separate legislative powers to control audible construction noise. In addition, conditions can be attached with regard to storage and waste issues.

- 4.5 **Power Systems** – have submitted details indicating the location of their apparatus in the area.

Response: - Noted and this information will be passed on to the applicant.

- 4.6 **TRANSCO (Plant Location)** - have submitted details indicating the location of their apparatus in the area.

Response: - Noted and this information will be passed on to the applicant

- 4.7 **Greater Glasgow and Clyde Valley Tourist Board**

Response: - No response to date

5 **Representation(s)**

Statutory neighbour notification procedures were undertaken and the application was advertised in the Hamilton Advertiser as Development Potentially Contrary to the Development Plan. In response four individual letters of objection and one petition signed by the same individual objectors as the letters with one additional signature were received in respect of the proposal.

The grounds of objection are summarised below;

- 1) **There have been two previous planning applications to build a house on this site one by the previous owner and one by Mr Kilgarif, both were refused. The development of the garage/hatchery was also rejected and there is no change in circumstances to justify permission being granted now.**
Response: Noted. There have been a number of previous applications for an additional dwelling on the site which have been refused and the decisions upheld on appeal. These are detailed in Section 3.3. The applicants concerns with regard to policy will be considered in detail in the Assessment and Conclusions section of the report.
- 2) **Despite the previous application being rejected Mr Kilgarif has proceeded with building works and has built 4 ancillary units for which planning permission was not required. These units are now occupied and Mr Kilgarif intends to link the units up to form “self catering accommodation”. Is the application for a tourist development or permanent housing?**
Response: The application is for the provision of tourist accommodation, the principle of housing at this location having already been fully considered and rejected. Should the application be refused the Council will seek to initiate enforcement action in respect of any unauthorised use and remedial works for any unauthorised development or fixtures.
- 3) **If consent is granted this will make a mockery of the need for planning consent and it will lead to further applications for development from neighbours.**
Response: The objectors concerns are noted. Any further applications received will each be considered on their individual merits.
- 4) **The existing drainage/septic tank sewage system is unlikely to be able to cope with additional development.**
Response: Agreed. SEPA have already raised concerns that the existing septic tank is unable to cope with the additional effluent generated by this proposal.
- 5) **The use of heavy plant for the development has caused damage to the boundary wall which is now in need of repair.**
Response: This is a private matter to be resolved by the parties and cannot be regarded as a material planning consideration.
- 6) **The development will create additional traffic on Manse Brae which is already in poor condition and deteriorating rapidly.**
Response: Roads and Transportation Services were consulted and raised no concerns in this respect.
- 7) **The proposal is misleading as the chicken breeding site has not been used as such for the last 12 years at least. The use has therefore been abandoned. The previous owner had the agricultural warrant removed from the site to facilitate his plans to build a house which was refused, but the site remains a non-agricultural one therefore, how can it now revert back to claim change of use.**
Response: It is confirmed that no agricultural activity has taken place on the site for a number of years and that the site has been incorporated as garden ground within 7 Manse Brae. The agricultural occupancy condition which restricted the occupancy of the house to someone working full time in agriculture was lifted in August 1999. This is detailed in Section 3.3.1 (a).

- 8) **These new units which show 3 additional toilets with one of the units occupied have no legitimate means of discharge. They may have been “plumbed” into the current system (without the consent of current users and permission from SEPA) or may be by passing the septic tank and discharging directly into the Dalsarf Burn.**

Response: Agreed. This issue is currently under active investigation by SEPA. SEPA have confirmed that the units have been connected into the existing septic tank without consent and that the existing septic tank is incapable of accommodating the additional effluent discharge resulting from this proposal.

- 9) **The development comprises 5 separate units 4 of which (B-E) have been constructed during 2005/06 with at least one of the units occupied for residential purposes for the past several months.**

Response: Agreed. These units are recent structures which were built as permitted development. However, they were not built for the use as originally intended, but were constructed as purpose built self-catering units. Site inspections confirmed that one of the units is currently occupied. If the application is refused the Council will seek enforcement action to remove all unauthorised fixtures.

- 10) **No justification or supporting information has been provided in relation to the proposed self-catering units.**

Response: Whilst the applicant has supplied information in respect of the proposal the information supplied is not of sufficient detail to substantiate the viability of the business or to justify the proposed use in terms of Greenbelt Policy. The proposed use will be discussed in detail in the Assessment and Conclusion section of the report.

- 11) **The proposal is contrary to the provisions of the adopted Hamilton District Local Plan and policies contained in the South Lanarkshire Local Plan in that the proposal represents an inappropriate and unjustified form of residential development in the Greenbelt.**

Response: This issue will be considered fully in the Assessment and Conclusions section of the report.

- 12) **The building on the west side of the applicants house (A) is a large workshop rather than a garage and is shown on the drawings surrounded by 8 car parking spaces. Does this represent business activity.**

Response: The issue of business activity at this workshop has been fully investigated by the Council with no evidence of business activity found. However, this must be regarded as a separate issue as this workshop is not included in the current application. Of the eight parking spaces indicated on the plan, 5 relate to parking associated with the 2 self-catering units being considered with this application.

- 13) **The existing septic tank which currently serves 4 houses on Manse Brae is incapable of coping with the additional burden resulting from this development.**

Response: SEPA has confirmed the objectors concerns that extensive works would be required to the existing septic tank. It should be noted that the objectors site has already been flooded with raw sewage due to the proposal being connected into the existing septic tank without consent and the system's inability to cope with the added effluent, or a new septic tank installed in order to service this development.

- 14) **The proposal would give rise to unacceptable levels of traffic generation on a quiet rural road, to the detriment of pedestrian and road safety.**
Response: Roads and Transportation Services were consulted and raised no concerns in this respect.
- 15) **The drawings are inaccurate in that they appear to show a proximity relationship between building (E) and the girls toilet block which is now demolished. This is totally incorrect in that no portion of the girls toilet lies on Mr Kilgarifs land and it should be noted that the toilet block (which is entirely on the objectors land) has never been demolished.**
Response: The applicants have intimated that building E was built as a replacement building, (using approximately the same footprint) in place of one of the original buildings associated with the poultry business. Original drawings would substantiate this claim. The issue of the girls toilets are not relevant to this proposal.
- 16) **The objectors site has been flooded with raw sewerage due to the applicants disregard for the concerns raised by SEPA in connection with a previous application for a house which was rejected.**
Response: Noted. The issue with regard to the raw sewerage spillage has been dealt with by SEPA. SEPA has stated in previous consultations that the existing septic tank is incapable of dealing with additional effluent.
- 17) **Mr Kilgarif deliberately ignores the planning requirements.**
Response: Whilst noting the objectors concerns all breaches of planning legislation have been fully investigated and actioned by the Council.
- 18) **The original application was for 2 self-catering units with no mention of tourism and the objectors prepared their objections and comments to the proposal on this basis. They are concerned that the “tourism” application may circumvent many of the conventional planning safeguards which were fully documented on the previous refusal and are concerned that they have not had the opportunity to comment on this revised proposal (based on their detailed knowledge of the local situation) for change of use to form holiday accommodation.**
Response: Noted. The Council are aware of the objectors concerns, which will be taken account of in any decision taken.
- 19) **The three other users of the existing septic tank are not in agreement to altering the existing tank but wish the units to be served by the installation of a new septic tank situated on the applicants own land. The objectors have also expressed concern that as joint users of the existing septic tank they could be held jointly liable for the breach of SEPA regulations that have arisen as a result of the applicants actions.**
Response: SEPA has stated that the existing septic tank has reached capacity and have offered 3 solutions one of which involves upgrading the existing septic, whilst the other two solutions involve the installation of a new tank. The adjoining residents who share the septic tank have advised that the proposal, if approved must be served by a separate septic tank, and as such permission would be refused for access to their land to undertake any improvement works required by SEPA to upgrade the existing tank.

- 20) **The proposal constitutes backland development and is out of character with the surrounding locality. The proposal adversely affects the character of the area and does not conform to the existing settlement pattern within the village.**
Response: The development is located to the rear of the existing dwellinghouse at 7 Manse Brae and shows little regard for the local context of the immediate area both in terms of materials and setting. The proposed intensification and change of use of the site will introduce a use which would be inappropriate at this Greenbelt location. This issue will be considered further in the Assessment and Conclusions section of the report.
- 21) **The objectors initial understanding of the proposal was that it was the applicants intention to erect two single storey residencies, one of which has been inhabited continuously by his family since Easter 2006.**
Response: The application was originally submitted on the wrong application form which described the proposal as “proposed change of use to provide two self catering living accommodations.” However the nature of the submission was always for the provision of tourist accommodation. This anomaly was rectified through the submission of a revised application form.
- 22) **The technique employed by Mr Kilgarif of “build now, ask later” is designed to deter the Council from refusing the application as the works have already been largely completed. The linking of three of the units together will provide the applicant with one large dwelling and one smaller dwelling. This will provide the applicant with the provision of an additional dwelling which was always the applicants’ intention.**
Response: It is confirmed that structures erected on site were carried out under the permitted development rights conveyed under the Town and Country Planning (General Permitted Development) (Scotland) Order and therefore the approval of the Council was not required in this instance. However, this position was confirmed as a result of information supplied by the applicant which would now appear to be inaccurate in which the applicant advised that the use of the structure would be incidental to the enjoyment of the dwellinghouse i.e. storage/ shed etc when in fact the intension was to use them as independent residential units. Had this information been forthcoming at the time the original enquiry was made the applicant would have been advised of the need for planning permission and the fact that this would be unlikely to be granted due to the site’s location within the Greenbelt and the local plan policies that applied therein. However there is scope within the planning legislation to submit an application for retrospective planning permission. In such cases the Council is required to determine the application on its individual merits. If the proposal is deemed inappropriate then the Council can pursue formal action to rectify any breach of planning control.

With regards to the proposed change of use of the units and the expansion of 3 of the structures into one residential unit, this does require formal planning approval and is the subject of this current submission. This proposal will be assessed against current policies and guidance and determined on its individual merits.

- 23) **Mr Kilgarif’s back garden is totally out of keeping with the rest of the local environment in Manse Brae, which is a small very quiet community.**
Response: This issue will be considered in the Assessment and Conclusion section of the report.

- 24) **Other operations taking place within the application site which are causing concern are the internal alterations to the existing garage which the objector feels will be turned into another self catering unit.**

Response: Noted. This is a separate matter which is presently being investigated by Planning Services. Should the applicant wish to change the use of the unit this would require the submission of a further application. However it should be noted that an application for change of use of the garage to a separate dwelling has already been rejected and the decision upheld on appeal.

These letters have been copied and are available for inspection in the usual manner.

6 Assessment and Conclusions

- 6.1 The applicants seek the change of use of 4 recently constructed outbuildings within the curtilage of the dwelling at 7 Manse Brae to form 2 self-catering tourist chalets. The proposal involves linking 3 of the (s.c.) units together to form 1 large chalet with the other (s.c.) unit providing a small independent chalet. The proposal will necessitate improvements to the existing vehicular access. The main planning considerations in determining the application are whether the proposal is in accordance with national and local plan policies and the impact of the proposed development upon the amenity of the area, its traffic implications and drainage implications.
- 6.2 In terms of national planning policy, SPP21 – Greenbelt and Development Department Circular 24/1985 attach great importance to the government's aims to protect areas designated as Greenbelt from inappropriate forms of development in order to obtain a quality rural environment. Whilst the provision of tourist accommodation may be considered an appropriate use within the Greenbelt consideration must be given to detailed local plan policy wording and impact on the amenity. Both of these issues are considered later in the report.
- 6.3 In terms of local plan policy, the proposed development is located within the Greenbelt and is affected by Policies EN1a of the adopted Hamilton District Local Plan, SLP1 of the South Lanarkshire Planning Policies and Policy STRAT3 of the finalised South Lanarkshire Local Plan. The above policies reinforce the principle that development within the Greenbelt requires to be strictly controlled and that within these areas there will be a strong presumption against development, including changes of use, unless it is shown to be necessary for the furtherance of agriculture, forestry or other use appropriate to the Greenbelt. Policy STRAT3 reinforces this further by stating that the Council will “strongly resist development” unless the above criteria can be met. Policy EN1a of the Hamilton District Local Plan and SLP1 of the South Lanarkshire Planning Policies set out the criteria against which proposals must be assessed (these are detailed in section 3 of this report), where proposals relate to the rehabilitation or change of use for residential purposes of disused or redundant buildings. This does not apply in this case as the buildings in question are modern and have been recently built.
- 6.4 Although this application relates to a change of use of structures to self-catering accommodation units, the applicant cannot claim to comply with Policy EN1a as the proposal relates to new build structures. The applicant has essentially constructed structures with the intention of utilising these as self-catering residential units and there is no policy justification for such new build within the Greenbelt in general, and this area in particular.

- 6.5 As the accommodation is not linked to or associated with any direct tourist attraction, the proposal can also be considered to be contrary to SLP1-Greenbelt. In view of the above, I consider that the proposal fails to satisfy Policies EN1a, SLP1 and STRAT 3 of the adopted Local Plan.
- 6.6 Furthermore the site is also designated as being within an Area of Great Landscape Value (Policy EN1c of the Hamilton District Local Plan and Policies ENV28 and ENV4 of the SLLP apply). The policies of both these plans seeks to further protect the integrity of these areas. Any development permitted within these areas must be considered to not adversely affect or undermine the quality of the area. With regard to detailed consideration of the proposed development I am of the opinion that the proposal fails to meet this criteria when assessed against the relevant criteria set out in respect of DC1 of Hamilton District Local Plan, SPL6 of the South Lanarkshire Planning Policies and DM1 of the SLLP (detailed below).
- 6.7 Policy DC1 – Development Control General of the adopted Hamilton District Local Plan, South Lanarkshire Planning Policy SLP6-Development Control – General and Policy DM1 – Development Management of the finalised South Lanarkshire Plan require all planning applications to take due regard to the local context and built form of the area and to cognizance of scale, position and materials of surrounding buildings and landscape. I am not persuaded that the proposal has taken the local built form into account in that the site is served by a narrow road frontage and it constitutes a form of backland development which is out of character with the existing settlement pattern in this locality. The proposal has not been designed as an integral part of the property but has been designed in isolation to meet the needs of the applicant. As a result the proposal detracts from both the amenity of the surrounding area and to the level of amenity currently enjoyed by the adjoining residents. The proposals are considered contrary to the above policies.
- 6.8 In relation to Policy ED9 of the Hamilton District Local Plan and Policies ECON9, ECON10 and ECON12 of the SLLP, South Lanarkshire Council will seek to support proposals to develop and expand tourism in South Lanarkshire and this includes the increased provision of high amenity tourist accommodation, however, these must be provided in suitable locations. The development of these facilities must be structured and not carried out in an ad-hoc manner. If not sensitively regulated, proposals of this nature could lead to an increase in traffic congestion, pollution, strain on infrastructure and the subsequent undermining of the quality of the environment which makes the Clyde Valley an attractive destination. Therefore, whilst being mindful to support tourism development in the Clyde Valley these Policies seek to balance economic benefits with the need to ensure that the quality of the area is maintained. When assessed against the criteria set out in the above policies the proposal is considered contrary to policy in that:
- Policy ED9** – The proposed development is regarded as backland development and is not of a scale and nature appropriate to this location. In addition the proposal does not assist in improving the range and quality of tourist attractions within the Clyde Valley.
- Policy ECON9** – This policy does not override strict Greenbelt policy, however even if the proposals are assessed against the criteria identified in section 3 of this report, they do not satisfy the terms of the criteria as follows:
- a) The form of development behind Woodhall constitutes a form of backland development which does not conform to the existing development pattern.

- b) SEPA have raised serious concerns as the existing drainage system is incapable of coping with the development.
- c) The proposal is situated in an isolated location which is not accessible by public transport.
- d) No adverse impact on traffic
- e) The proposal fails to comply with Policies DC1 and DM1 and SLP6.

PolicyECON10 – The proposal cannot be defined as a new or enhanced tourist facility.

Policy ECON12 – In consideration of Policy ECON12 this policy also does not override the relevant landuse policy, which in this instance is Greenbelt policy. However, even if the proposals are assessed against the relevant criteria, ie. i) and ii) there is no policy compliance as:

- i) This proposal must be regarded as a new build development erected without justification in an ad-hoc manner which is to the detriment of the surrounding area.
- ii) It is considered that whilst the applicants have submitted supporting information in respect of the proposal no valid justification has been made for the provision of tourist accommodation at this location in terms of the policies of the adopted local plan and that the applicants' business plan is not of sufficient detail to substantiate the viability of the business. It is unlikely that given the pre tax income of £24500 which the applicant expects to generate from the business that it would be capable of providing local employment as stated by the applicant.

- 6.9 In respect of drainage provisions, SEPA have raised serious concerns to the proposal as the existing drainage system is incapable of coping with the additional effluent resulting from this development. The provision of sewerage services for this proposal will require substantial improvements to or replacement of the existing system which must be carried out by the applicant, details of which have not been supplied.
- 6.10 With regard to the objections received in respect of this proposal which are detailed in section 5 of this report, given the history of the site I am satisfied that the objectors' concerns are both relevant and justified.
- 6.11 In summary it is considered that the proposal is clearly contrary to approved and finalised local plan Greenbelt policy as well as associated Greenbelt policy contained in South Lanarkshire Planning Policies and cannot be justified. The provision of tourist accommodation in this location would severely undermine current local plan policy which has protected the rural character of this area and has been supported by Government advice contained in Circular 24/1985. The granting of consent in respect of this proposal would also establish an undesirable precedent. In addition the proposals conflict with policies relating to the Area of Great Landscape Value and raises amenity issues. There are also serious issues expressed by SEPA relating to drainage measures which the applicants have failed to resolve.

7 Reasons for Decision

- 7.1 The proposed development is contrary to national policy guidance contained within SPP21 - Greenbelt and Scottish Development Department Circular 24/1985 – Development in the Countryside and Greenbelts and to Policies EN1a, EN1c, ED9

and DC1 of the adopted Hamilton District Local Plan as well as Policies STRAT3, ENV28, ENV4, ECON9, ECON10, ECON12 and DM1 of the finalised South Lanarkshire Local Plan and SLP1 and SLP6 of the South Lanarkshire Planning Policies and raises infrastructure issues that cannot be dealt with satisfactorily through the imposition of planning conditions.

Iain Urquhart
Executive Director (Enterprise Resources)

5 February 2007

Previous References

- ◆ HM/99/0019
- ◆ HM/99/0491
- ◆ HM/04/0332
- ◆ HM/04/0655
- ◆ HM/05/0063

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 - Environmental Services 07/08/06
 - Roads and Transportation Services (Hamilton Area) 07/08/06
 - Power Systems 09/08/06
 - Scottish Water 16/08/06
 - TRANSCO (Plant Location) 08/08/06
 - S.E.P.A. (West Region) 16/10/06
 - S.E.P.A. (West Region) 16/10/06
- ▶ Representations
 - Representation from : Professor Howard Stevens, 1 Old School, Manse Brae, Dalserf, ML9 3BN, DATED 14/07/06
 - Representation from : Professor H Stevens, 1 Old School, Manse Brae, Dalserf, ML9 3BN, DATED 31/10/06
 - Representation from : Margaret Watt, "Rowanbank", Manse Brae, Dalserf ML9 3BN, DATED 29/06/06
 - Representation from : M J Stewart, Old School, 12 Manse Brae, Dalserf, ML9 3BN, DATED 18/07/06

Representation from : Professor Howard Stevens, 1 Old School, Manse Brae,
Dalserf, ML9 3BN, DATED 04/10/06

Contact for Further Information

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

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Detailed Planning Application

PAPER APART – APPLICATION NUMBER : HM/06/0528

REASONS FOR REFUSAL

- 1 The proposed development is contrary to national policy guidance contained within SPP-21 – Greenbelt and Scottish Development Department Circular 24/1985 – Development in the Countryside and Greenbelts.
- 2 The proposed development is contrary to Policy EN1a of the Hamilton District Local Plan, STRAT3, of the South Lanarkshire Local Plan (Finalised) and SLP1 of the approved South Lanarkshire Planning Policies, as it would constitute the construction of new build tourist accommodation in the Greenbelt without appropriate justification.
- 3 The application site cannot be served by a sewerage facility meeting the requirements of SEPA, and is therefore incapable of accommodating the proposal.
- 4 The proposal is contrary to Policy DC1 of the Hamilton District Local Plan, Policy DM1 of the South Lanarkshire Local Plan and Policy SLP6 of the South Lanarkshire Planning Policies by virtue of the proposals scale, massing and layout.
- 5 If approved, the proposal would set an undesirable precedent which could encourage further similar applications for development which would be prejudicial to the Greenbelt designation.
- 6 In the interests of amenity in that the proposal constitutes an unacceptable form of backland development which is not in keeping with the character, form or pattern of the surrounding residential properties.
- 7 The proposed development is contrary to Policy EN1c of the Hamilton District Local Plan and ENV28 and ENV4 of the South Lanarkshire Local Plan (Finalised), as it would adversely affect and undermine this Area of Great Landscape Value

For information only

For information only

