



Council Offices, Almada Street,
Hamilton

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/EK/23/002

- ◆ Site address: 67 School Road, Sandford, Strathaven, ML10 6BF
- ◆ Application for review by Mr and Mrs Kirkeiner of the decision by an appointed officer of South Lanarkshire Council to refuse planning permission for planning application P/23/0413
- ◆ Application P/23/0413 for ancillary accommodation to the rear garden
- ◆ Application Drawings:-
 - ◆ PROPOSALS – Version B
 - ◆ LOCATION PLAN – Version B

Decision

The PLRB upholds the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/23/0413 for the reasons detailed in the Council's decision notice dated 4 July 2023.

Geraldine McCann
Head of Administration and Legal Services

Date of Decision Notice: 26 October 2023

1. Background

- 1.1. This Notice constitutes the formal decision notice of the Planning Local Review Body (PLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2. The above application for planning permission was considered by the PLRB at its meeting on 2 October 2023. The PLRB was attended by Councillors Gerry Convery (Depute), Maureen Devlin, Colin Dewar, Gladys Ferguson-Miller, Mark Horsham, Richard Nelson (Chair) and Norman Rae.

2. Proposal

- 2.1. The proposal is for ancillary accommodation to the rear garden at 67 School Road, Sandford, Strathaven.
- 2.2. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.
- 2.3. The PLRB noted that:-
- ◆ a statement of observations from the Planning Authority in response to the Notice of Review had been received late
 - ◆ the statement of observations had not been included in the review documentation. The applicant's agent objected to the late lodging of the statement of observations. Furthermore, the agent had declined to comment on the statement of observations as he considered that the statement of observations should not form part of the review procedures
 - ◆ the Town and Country Planning (Scotland) Act 1997 required that all relevant material planning matters were considered
 - ◆ if the PLRB decided to accept the late submission, the review would require to be continued for further procedure to allow the applicant opportunity to comment, either by means of a hearing session or written submissions. If by written submission, the applicant would require to be given a minimum of 14 days to respond to the statement of observations

3. Determining Issues

- 3.1. The determining issues in this review were:-
- ◆ the proposal's compliance with the:-
 - ◆ adopted South Lanarkshire Local Development Plan 2 (SLLDP2)
 - ◆ National Planning Framework 4 (NPF4) which had been adopted on 13 February 2023 and formed part of the statutory development plan
 - ◆ impact on the amenity of surrounding properties
- 3.2. The PLRB established that, in terms of the adopted South Lanarkshire Local Development Plan 2, the site was located within the settlement boundary of Strathaven. The following policies applied to the application site:-
- ◆ Policy 3 – General Urban Areas and Settlements
 - ◆ Policy 5 – Development Management and Placemaking
 - ◆ Policy DM2 – House Extensions and Alterations
 - ◆ Policy DM5 – Extended Family Accommodation
- 3.3. Policy 3 states that residential developments on appropriate sites will generally be acceptable. Particular consideration will be given to likely impacts on the amenity of the area. Developments which would be detrimental to the amenity of residents and the wider community or to the character of the surrounding area will not be permitted.
- 3.4. Policy 5 states that, in order to ensure that development takes account of the principles of sustainable development, all proposals require to be well designed and integrated with the local area. Proposals should have no unacceptable significant adverse impacts on the local community and the environment.
- 3.5. Policy DM2 states that house extensions and alterations will be considered favourably where it can be demonstrated that the proposal complies with the following criteria:-
- ◆ the siting, form, scale, design and materials respect the character of the existing dwelling and the wider area. Within this context, high quality, innovative design will be encouraged where it complements the character of the building and its surroundings

- ◆ it does not dominate or overwhelm the existing dwelling, neighbouring properties or street scene in terms of size, scale or height
- ◆ it does not significantly adversely affect adjacent properties in terms of overlooking or loss of privacy, daylight or sunlight
- ◆ it retains adequate car parking, usable garden ground and bin storage within the site
- ◆ it does not have an adverse impact on traffic or public safety

3.6. Policy DM5 states that the formation of separate family accommodation through either the extension of existing dwellings, the conversion of an outbuilding within the curtilage of the donor house, or formation of alternative temporary accommodation such as a chalet or lodge shall be acceptable where all of the following criteria can be met:-

- ◆ a detailed justification will require to be submitted to demonstrate the need for the development and the form and scale of the proposed accommodation
- ◆ adequate garden ground, access, parking and turning facilities continue to be provided within the site
- ◆ no harm to the amenity of neighbouring properties through loss of privacy, overlooking or overshadowing will occur
- ◆ the proposals do not harm the amenity or the character of the surrounding area
- ◆ the proposal takes account of any supporting planning guidance prepared by the Council, where relevant to the proposal

Where proposals for the formation of a family annex are acceptable, any planning consent will be subject to the imposition of a tying condition. This will stipulate that the extension or converted building shall be used solely as accommodation ancillary to the main dwellinghouse. This is to ensure that the family annex is not occupied, let or sold as a separate dwelling unit where otherwise the formation of an additional dwelling would be unacceptable due to a lack of garden ground, insufficient parking or unsuitable access.

In the case of temporary accommodation, this would also be limited by planning condition relating to timescales and purpose for which it is required.

3.7. In terms of the National Planning Framework 4, the following policy applied to the application site:-

- ◆ Policy 16 – Quality Homes

3.8. Policy 16 states that:-

(g) Householder development proposals will be supported where they:-

- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
- ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

3.9. In considering the case, the PLRB had regard to the applicant's submission that:-

- ◆ The walls will not be lined in a grey uPVC panel as noted by the planning officer but will be natural timber cladding as noted and shown in drawing 1588-PL-01 (applicant's LRB Statement).
- ◆ The width of the applicant's rear garden is 7 metres as opposed to 6 metres as noted by the planning officer.

- ◆ It is noted that the distance of windows between directly facing habitable rooms of the proposals and existing houses is less than 18 metres. Firstly, the ancillary accommodation windows would not be directly facing neighbouring windows as they are off at an angle and, secondly, this distance quoted is false with these windows being over 18 metres as per drawing 1588-PL-02 and figure 1 (applicant's LRB Statement).
- ◆ The planning officer notes in paragraph 3.8 of their report *"In general, ancillary structures are a common form of householder development. The proposed structure is of a modern design with the proposed materials would not conflict with the existing property and surrounding built form. The extension is of a size, scale or design that would not appear out of character within the context of the dwellinghouse or wider area."* However, within one of the reasons for refusal the planning officer notes that the proposal *"does not conform to the scale, design or character of the original building on the site or the surrounding built form and would therefore be detrimental to the amenity of the area in general."* This represents a rather large inconsistency.
- ◆ It should be noted that no objections from any neighbours were received.
- ◆ One of the reasons for refusal is stated below:-
The proposed extension is contrary to Policy 16 of the National Planning Framework 4 (adopted 2023) in that it does not conform to the scale, design or character of the original building on the site or the surrounding built form and would, therefore, be detrimental to the amenity of the area in general.
 As per the planning officer's notes in paragraph 3.8 of their report, the applicant is of the opinion that the proposals, which are a common form of householder development, do not conflict with the existing property or surrounding built form in terms of design, scale and location.
 As can be seen in figures 2 and 3 (applicant's LRB Statement), other properties have located outbuildings such as sheds and summerhouses in similar locations at the north end of their garden to where the applicant's proposal is located resulting in a proposal that is compatible with the character of the area. Furthermore, the design of the development is proposed to take cognisance of the scale and materiality of these to tie in with the surrounding area.
 The proposals are also broadly designed to be close to that of an ancillary building that would be allowed under permitted development as per the extract from permitted development guidance in figure 4 (applicant's LRB Statement). Unfortunately, one of the conditions for the development as a whole was removing permitted development rights, otherwise, the applicant may well have applied for a certificate of lawfulness instead.
- ◆ The second reason for refusal is noted below:-
The proposal is contrary to policies 3, 5 DM2 and DM5 of the South Lanarkshire Development Plan (adopted 2021) in that it would have a detrimental impact on the amenity of neighbouring properties due to a loss of privacy.
 As per the planning officer's report, the main issue seems to be the windows facing each other. As we have shown, the distance from window to window is over the required 18 metres quoted in South Lanarkshire's Policy. The proposed ancillary accommodation will only be for occasional habitation where the use intensity will be low, certainly much lower than that of any of the two rear bedrooms to the first floor of the existing houses which have broadly the same view of the area but looking back in the opposite direction.
- ◆ The proposals are acceptable in relation to design, scale and location within the surrounding area.
- ◆ The proposals will not have a detrimental effect on neighbouring amenity or privacy.
- ◆ No neighbours felt this would be the case hence why no objections were received.

3.10. In reviewing the case, the PLRB considered that it had sufficient information before it to determine the application.

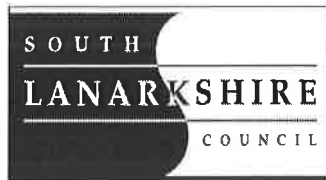
3.11. It further considered that there was no valid policy justification to support the proposed ancillary living accommodation within the rear garden at the proposed location.

4. Conclusion

- 4.1. The PLRB considered a request to review the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/23/0413 for ancillary accommodation to the rear garden at 67 School Road, Sandford, Strathaven. The PLRB concluded that there was no valid policy justification to support the proposed ancillary accommodation and the proposal would not accord with Policies 3, 5, DM2 and DM5 of the adopted South Lanarkshire Local Development Plan 2 and Policy 16 of the National Planning Framework 4.
- 4.2. The PLRB, therefore, upheld the decision to refuse planning permission for planning application P/23/0413 for the reasons stated on the Council's decision notice dated 4 July 2023.

5. Accompanying Notice

- 5.1. Attached is a copy of the Notice to Accompany Refusal, etc in the terms set out in Schedule 2 to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.



NOTICE TO ACCOMPANY REFUSAL ETC

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.