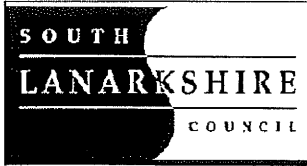


Appendix 5

Notice of Review (including Statement of Reasons for Requiring the Review) submitted by applicant J Lawrie



For official use: NOR/ _ _ / _ _ / _ _ _ _
Date received by PLRB: _ _ / _ _ / _ _ _ _

Notice of Review

Under Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on local developments
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
The Town and Country Planning (Appeals) (Scotland) Regulations 2008

This notice requires to be served on the Planning Authority within 3 months of the date of the decision notice or from the date of expiry of the period allowed for determining the application which is set as 2 months following the validation date of the application

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your Notice of Review.

Please complete in BLOCK CAPITALS

Applicant(s)	Agent (if any)
Name: <input type="text" value="John Lawrie"/>	Name: <input type="text" value="DTA Chartered Architects Ltd"/>
Address: <input type="text" value="c/o DTA Chartered Architects Ltd"/>	Address: <input type="text" value="9 Montgomery Street
The Village
East Kilbride"/>
Postcode: <input type="text"/>	Postcode: <input type="text" value="G74 4JS"/>
Contact Telephone 1: <input type="text"/>	Contact Telephone 1: <input type="text"/>
Contact Telephone 2: <input type="text"/>	Contact Telephone 2: <input type="text"/>
Fax No: <input type="text"/>	Fax No: <input type="text"/>
E-mail:* <input type="text"/>	E-mail:* <input type="text"/>

Mark this box to confirm that all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Application reference number: / /

Site address:

Description of proposed development:

Validation date of application: Date of decision (if any):

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for requesting review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

In cases where the Planning Local Review Body considers that it has sufficient information, including the Notice of Review, the decision notice, report of handling and any further representations from interested parties, it may, under Regulation 12, proceed to determine the review. It is anticipated that the majority of cases the Planning Local Review Body deals with will fall into this category.

The Planning Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable it to determine the review. Further information may be required by one or a combination of procedures, such as written submissions, the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you consider most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Planning Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement of reasons for requiring the review

You must state, in full, why you are requesting a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is, therefore, essential that you submit with your Notice of Review all necessary information and evidence that you rely on and wish the Planning Local Review Body to consider as part of the review.

If the Planning Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your Notice of Review and all matters you wish to raise. If necessary, this statement can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Appeal statement attached as separate document.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

We have included photographs from Millrigg Road as an appendix to the appeal statement. Positive feedback during the application consultation period meant that this information was unnecessary. As the application was refused we now wish to submit to allow the Review Body to make an informed judgement.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your Notice of Review and intend to rely on in support of your review.

- 1. Application Drawings
- 2. Appeal Statement

Note: A copy of the Notice of Review, the review documents and any notice of the procedure of the review will be made available for inspection by prior appointment (Phone: 08457 406080) at the office of Planning and Building Standards Services, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB until such time as the review is determined. It may also be made available on the Council's website.

Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- 2 copies** of all documents, materials and evidence which you intend to rely on (eg planning application form, plans and drawings, decision notice or other documents) which are now the subject of this review.

Note. Where the review relates to a further application, eg renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed:

[Redacted Signature]

Date:

3rd September 2010

This form and 2 copies of all supporting documents should be sent to:-

**Head of Planning and Building Standards Services
Enterprise Resources, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB**

Email: enterprise.hq@southlanarkshire.gov.uk

Phone: 08457 406080

For official use

Date stamp)

For more information or if you want this information in a different format or language, please phone 01698 455379 or send email to enterprise.hq@southlanarkshire.gov.uk

Planning Appeal

Application
Reference:
CL/10/0152

DTA /10/08/2010

**Written Submission in the Appeal against Refusal of Planning Permission
for Mr John Lawrie against South Lanarkshire Council**

Planning Reference CL/10/0152

**Erection of feature entrance walls and pillars; Erection of garden fencing
and Erection of glazed garden building. (All retrospective)**

West Millrigg, Wiston, ML12 6HU

Written Statement

Introduction

This appeal, prepared on behalf of the appellant Mr John Lawrie, is against the refusal by South Lanarkshire Council to grant a retrospective approval for the construction of feature entrance walls and pillars, the formation of garden fencing and the erection of a glazed garden building at West Millrigg Farm, Wiston. The refusal relates to all three features of the application although the planner's Delegated Report states that certain elements of the application would in fact be acceptable. Should the refusal be upheld the Planning Authority seek to reduce the height of the stone pillars, partially remove a section of fence and demolish the garden building in its entirety through the use of Enforcement Action.

The application site constitutes the garden ground of No. 2 West Millrigg, one of three new build dwellings which form part of a wider redevelopment of West Millrigg Farm. The stone wall and pillars are located at the entrance to the development on the B7055 (Millrigg Road). The section of fence in question divides the rear gardens of No's 1 and 2 West Millrigg.

The garden building was carefully designed and crafted by the appellant to adhere to the Permissible Development Rights described in The Town and Country Planning (General Permitted Development) (Scotland) Order 1992. This was constructed in good faith by the appellant who believed that he did not require a formal planning approval for such a small unobtrusive outbuilding (under 24 sq m and no taller than 4 m in height) within the curtilage of an un-extended dwelling. The appellant is correct in this assertion but failed to realise that the Permissible Developments Rights awarded by the Scottish Government had in fact been removed by the Planning Officer when the original Planning Approval for the redevelopment of the farm had been granted.

An application for Full Planning Permission for the works was submitted in January 2010 (CL/10/0152) following advice from the Councils Enforcement Officer that this was necessary. Although feedback during the consultation process had been positive this application was ultimately refused in July 2010. This appeal statement seeks to illustrate that the reasons given for refusal are unsound and that alternatives to a full demolition of this carefully crafted garden building are still available to the Local Review Body.

The reasons given by South Lanarkshire Council in the Planning Decision Notice are;

- 1 *This decision relates to drawing numbers: L(2-)01; L(2-) 02 fence; L(2-) 02 revA proposed out building and feature wall.*
- 2 *In the interests of the visual amenity of the area in that the proposal, by virtue of the size, position, design and materials of the detached building and the form and extent of the boundary fencing, would be out of character with and adversely affect the overall quality of the Regional Scenic Area and as such would be contrary to Policies ENV 4 and ENV 29 of the adopted South Lanarkshire Local Plan.*
- 3 *In the interests of amenity in that the proposal, by virtue of its size, position, design and materials of the detached building and the form and extent of the boundary fencing, would fail to respect the landscape form and traditional forms of development of the area, and as such would be contrary to Policy ENV 34 of the adopted South Lanarkshire Local Plan.*
- 4 *If approved, the proposal would set an undesirable precedent which could encourage further similar applications for proposals which would be to the detriment of the appearance and amenity of the area in general.*
- 5 *In the interests of the visual amenity of the area in that the proposal, by virtue of the form, design and materials of the detached building, and the form and extent of the boundary fencing does not respect the local context of the area and as such is contrary to Policy DM 1 of the adopted South Lanarkshire Local Plan.*
- 6 *In the interests of the visual amenity of the area in that the proposal, by virtue of the position of the detached building does not integrate with existing buildings at the site and is visually prominent in the landscape, and as such would be contrary to Policy CRE 1 of the adopted South Lanarkshire Local Plan.*
- 7 *In the interests of road safety, in that the feature walls and pillars obscure visibility for vehicles exiting the site.*

Reason 1 - The members of the Local Review Body will observe that Reason 1 is in fact an administrative note intended to clarify the drawings referred to in the application and can therefore be disregarded as a reason for refusal.

Reasons 2,3,5 and 6 collectively relate to the buildings impact on the visual amenity of the area as assessed against SLC policy and as such can be read together. They are summarised in the planners Delegated Report in paragraph 5.1 which states that the proposals have to;

..comply with Policies ENV 4, ENV 29, ENV 34, CRE 1 and DM 1 of the adopted South Lanarkshire Local Plan.

The visual impact or otherwise of the garden building is the main question on which the Review Body are asked to make a judgment. The appeal benefits from the works having been complete in that the Local Review Body can assess for themselves the visual impact of the building without attempting to visualise based on a set of two dimensional plans. Both the quality of the workmanship and materials used in the construction can be easily recognised as will be further illustrated later in this appeal statement.

Reason 4 refers to the undesirable precedent that permitting this development would allegedly set. However, as agents we are consistently advised by the South Lanarkshire Council Planning Authority that each and every application is taken on its own merits. Should this small garden building and fence generate similar applications then these applications should be assessed against the particular conditions and policies relevant to their specific sites. Only then could they be refused, or indeed granted, as the Planning Authority see fit. It is worth noting that no such similar applications have been made despite the works having been complete for approximately a year and no objections or complaints were ever submitted to the Planning Authority in that period.

That this is considered a valid reason for refusal is further undermined by the Permissible Development Rights allowed under current planning legislation. As stated previously the appellant erected the garden building in good faith believing that he was complying with the current planning legislation which allows small buildings of this type to be constructed without the necessity of gaining a formal Planning Approval. The building in question is not a large or unsightly one and the merits of its design will be discussed later in this report. Should any other

un-extended residential property in Wiston determine to build exactly such a garden building they could do so entirely out-with the Planning System. The Planning Authority would have no powers to seek the demolition of such a building despite the wider areas designation as a Regional Scenic Area or Area of Great Landscape Value.

We respectively ask the Local Review Body to form their own opinion of the desirability of the development based on the actual conditions on site, the photographs and the information before them.

Reason 7 – This is the only reason for refusal which relates to the feature wall and pillars at the entrance to the development and has apparently been included in the interests of road safety. However, as the Planners Delegated Report notes these issues can easily be resolved by reducing the height of the stone pillars by 150mm (around 6 inches). The design and construction of the wall have been accepted and any road safety issues can be simply resolved by the imposition of a condition; as such it is highly questionable whether this should have been used as a reason for refusal. Should the Local Review Body be minded to grant an approval this could be achieved by attaching a suitably worded condition requiring that these pillars be reduced in height.

Impact on the Visual Amenity - Size, Position, Design and Materials

Reasons for refusal 2, 3, 5 and 6 each refer to the size, design, materials or position of the garden building and 2, 3 and 5 refer to the form and extent of the boundary fencing. We have requested that this review include a site visit so that the Review Body can determine for themselves the impact on the visual amenity. However should this be deemed unnecessary we also include Image 01 (appendix A) to further illustrate the polemical nature of the planner's decision.

Materials

The appellant has not skimmed on the materials or workmanship in the garden building, choosing to use expensive natural slate as a roofing material and timber cladding for the walls to ensure a strong visual coherence with the other buildings in the development. However the planner considers that the choice of materials is *"at variance with the traditional buildings in the area"* to the extent that the building *"adversely affects the rural character of the area"*. There is a wide range of materials used throughout the Regional Scenic Area; timber cladding, timber framed windows and natural slate roofs are among the most common. It is difficult to conceive of a palette of materials which would be more in keeping with the tradition of the area than those used. Of the SLC policies quoted in the Delegated report only ENV 34 and DM 1 mention materials specifically. ENV 34 encourages the use of such materials *"which respect and reinforce local character and identity"* and avoids the use of inappropriate construction materials such as *"high levels of external lighting, concrete and artificial building products"* none of which apply in this instance.

Size and Position

With respect to the size of the outbuilding we have already shown that this falls below the threshold which would usually require an application to be made. It is a small scale single storey room with a hipped roof. As can be seen in Image 02 (Appendix B) the room is smaller than the detached garages which were approved and thereby deemed to have been of an appropriate size for this rural location. Approval was granted recently for an extended garage with floored storage elsewhere on the site (planning approval CL/10/0167). At no point was the size of these detached buildings considered a barrier to approval. The same is true of the positioning of these other structures. Whilst the outbuilding is on slightly higher ground than the dwelling house it is not likely to break the skyline given its backdrop of rolling hills and mountains.

Form and Extent of Timber Fence

Although mentioned in three of the reasons for refusal there is very little in the Delegated Report that justifies why the timber fence should be removed. It is argued that the style of the fence is "*at odds with the rural setting*" however this style of fence at 1800mm high is permitted where it is between the two houses and the area immediately to the rear of the dwellings adjacent to the patios. The fence then reduces in height to 1300mm, a little higher than waist height, and continues on to delineate the common boundary. The Report does not explain why a style of fencing acceptable at one part of the site should be at odds with the rural setting when it is reduced in height at a different part of the site. We consider that this approach is nonsensical particularly as the actual visual impact of either section of fence is negligible from even a short distance away.

Design

The only description of the actual design of the garden outbuilding in the Delegated Report states that "*Its style is incongruous in this setting where the elements would dictate low, solid buildings*" which, we argue, is exactly what has been constructed. The building appears no less solid as a result of the glazing incorporated on two elevations. This can be seen in our Image 01, taken from Millrigg Road, which shows that it is difficult to distinguish the materials over even a relatively short distance. The glazing, rather than causing the building to appear less solid, actually helps incorporate it into the landscape by reflecting the scenery around it. The design is simple and elegant and enhances the surroundings by interacting, and allowing its users to interact, with the landscape. SLC Policy ENV 34 'Development in the Countryside Policy' encourages development which is "*of a high quality traditional or contemporary, innovative design which interprets and adapts the traditional principles and features*" (our emphasis). It is sympathetic to vernacular patterns of scale and proportion and has no "*significant*" impact on the local environment. In this regard it can be seen to comply with Policy ENV 34 and DM1.

All of the policies mentioned in the Delegated Report seek to protect the visual amenity and all care was taken in the design, construction and materials picked by the appellant when carrying out the works. If however the members of the Review Body find some merit in the planner's comments then we would respectfully request that they consider the other alternatives to refusal and demolition.

Landscaping Proposals

The Delegated Report states that there is "*no opportunity to utilise planting of a sufficient stature to screen it [the garden building]*". It is not known what arboricultural or horticultural advice the planner received before forming this opinion. The Delegated Report makes no reference to any consultees other than Roads and Transportation Services. A landscaping proposal was required as a condition attached to the original approval for the boundaries of the dwelling house which was to incorporate hedges reinforced with tree planting. According to the Delegated Report these conditions were imposed to ensure the development "*.. respects the character of the area, to reinforce traditional boundary styles and to introduce an element of shelter which would historically have been associated with farm steadings in exposed locations*". This condition has since been dispensed following the planting of various hedges and individual trees along the boundaries to the satisfaction of the council. At that time however the landscaping proposals were not intended to perform any function beyond reinforcing traditional building styles and introducing an element of shelter.

As agents we are aware of a number of developments where innovative planting schemes were utilised to perform a number of functions. The garden building is built close to the boundary but there remain various options for screening this should the Review Body deem this to be necessary. Plants such as willow can be managed to form a living willow structure which grows thick with elongated green leaves. Numerous creeper plants are regularly used on building, fences and walls to help integrate them into the landscape. Any landscaping proposal could investigate the best species to use at this location to ensure the best results to mitigate any perceived loss of amenity.

Conclusion

The geometry, design and materials of feature entrance wall are all accepted by the planner in their Delegated Report but require a condition be attached to the approval to lower the pillars by 150mm to mitigate any road safety issues. The dividing timber fence is acceptable at a height of 1800 mm between the two dwellings and an insufficiently strong argument has been presented as to why when it reduces to 1300mm between the rear gardens its style no longer suits the rural location. The main issue has been to measure the impact on the visual amenity of the garden building.

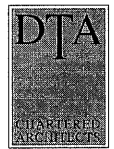
We have shown that a garden building identical to that which has been constructed could be built anywhere within the Regional Scenic Area or Area of Great Landscape Value where Permissible Development Rights have not been removed. This should not cause concern to the Review Body that an unwelcome precedent would be set because in every aspect of the design, construction and materials used this small scale building has no significant impact on the visual amenity and has been constructed with consideration and respect for its rural setting.

We have also shown that the building can be further integrated into the landscape, if required, by re-assessing the landscaping proposals. This will be carried out with the same care and attention as has characterised the applicants approach to the entire development.

For all of the above reasons we would ask that the Local Review Body uphold this appeal and grant full planning approval.



Image 01



Appendix A

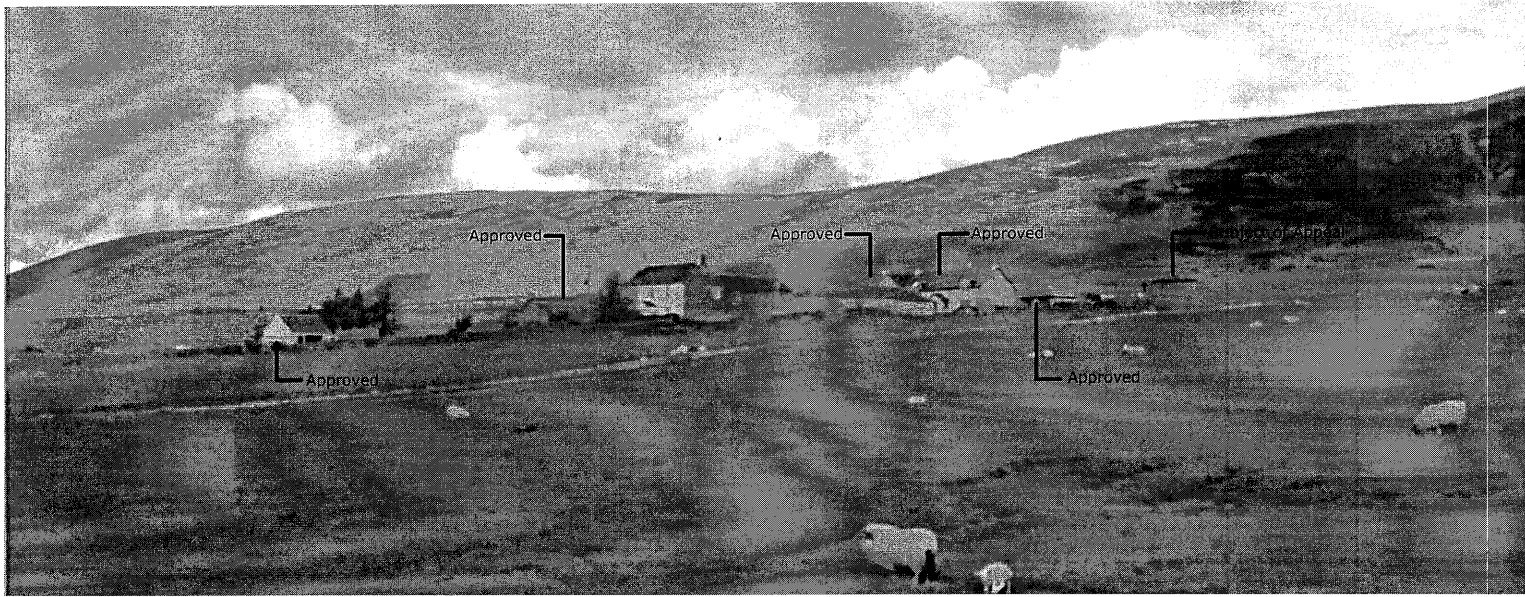
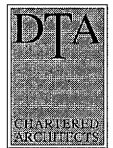


Image 02



Appendix B