

Appendix 7

Applicant's Comments on Further Representations Submitted by Interested Parties in the Course of the Notice of Review Consultation Process

Response to Council Statement of Observations

Application Reference:
CL/10/0152

DTA /08/10/2010

**Response to South Lanarkshire Council Statement of Observations in the
Appeal against Refusal of Planning Permission for Mr John Lawrie.**

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

Response

The Planning Departments observations include an introduction describing the Planning Background, an assessment against the development plan and other relevant policies and a section titled 'Other Material Considerations'. These merely repeat information from the planners Report of Handling and were dealt with in our original Appeal Statement. It is not our intention to restate our case here. However members of the review body will note the comment in Para 1.5 that at a meeting between the Council and us as agents "*...the council advised that it's [the glazed garden building] repositioning may be considered subject to the provision of drawings to demonstrate how this could be achieved*". The Agents took this to mean that the style, design and materials of this out building were therefore deemed acceptable and that it is only the position of the building that remained an issue. We believed that the negotiations were progressing to a successful resolution of this point and did not submit a drawing demonstrating the repositioning as it appeared unnecessary. However as negotiations were ongoing we then received a Refusal Notice.

Below are our comments on the numbered paragraphs of the Councils Observations.

Para 4.1 (a)

For professionals dealing with the Planning Process in Scotland on a daily basis it is sometimes hard to conceive that members of the general public can, on occasion, misinterpret the often complex planning legislation. The Planners themselves were fully aware of the implications of the removal of permitted development rights. Unfortunately despite the appellant's best efforts to create a building which would comply with those permissible development rights he fell foul of the same planning department who removed them. In doing so he created a building that would otherwise comply (see Para 4.1 (c)) designed in recognition of the area's sensitive landscape setting.

Para 4.1 (b)

The main issue raised in this paragraph deals with the appearance of the building particularly from the road. The members of the Review Body can form their own view of this from the photographs included in our original statement. However the final sentence of this paragraph is misleading. It is not our suggestion, nor is it implied, that the visual impact of the structure would only be acceptable if fully screened. Rather we are suggesting that the members of the review body may see some merit in providing additional screening and that this would be the preferred option to demolition.

Para 4.1 (c)

This paragraph confirms the above, that the works would otherwise comply with Permissible Development Rights. On the issue of whether this sets an unacceptable precedent the council mention a number of unauthorised buildings in the area. We are not given information on any of these i.e. whether they themselves are covered with Permissible Development Rights, whether enforcement action is being taken or even when they were constructed. It seems to be implied that they have been constructed as a result of this garden building but this seems unlikely. If granted by the Local Review Body then it can be shown that the correct procedures have been followed and therefore will strengthen rather than erode the Councils Enforcement powers.

Para 4.1 (d)

This section covers the stone wall which all parties recognise can be resolved through the imposition of a suitably worded condition.

Para 4.1 (e)

The Planner refers to traditional dwellings and steadings as the basis for the design which should be followed in this location. However this application is for a small scale garden building. This is a completely different type of building and is a more contemporary interpretation of the vernacular form using traditional materials. As our statement suggests this approach complies with the relevant planning policies. The building is not unusual being formed in slate and timber, as in the soffits and facias of neighbouring steadings, with elements of glazing.

Para 4.1 (f)

Our original appeal statement deals with the visual impact of the building. We provided a photograph taken from the road so that the members of the Review Body can determine for themselves the visual prominence, or other wise, when viewed from this location.

Para 4.1 (g)

The ambiguity remains over the acceptability of the fencing. The reasons that the fence at one location is not acceptable at another location have not been satisfactorily explained. The fence, rather than being two fences, starts off at 1.8 m high and drops to 1.1m high between the two plots. We believe that this is not a prominent location and are not likely to be visible to passers by. We would invite the Review body to form their own opinions on this matter.

Para 4.1 (h)

We believe that our original statements and the comments elsewhere in this response satisfactorily deal with the design and position of the garden building and disagree that it is at odds with the development pattern.

Conclusion

In summary, the wall feature can be easily amended to the satisfaction of the Council Roads Authority by the imposition of a condition on the approval. The timber fence is considered acceptable when it is "*...not visible to the wider area*". Our Appeal statement covers the final remaining issue, that of the design and position of the garden building and provides a photograph of the development from the road for your consideration. We hope that a site visit will illustrate to the Review Body that the Planners original decision is unsound based on the reasons given..