

Appendix 2(a)

Report of Handling

Report dated 8 June 2011 by the Council's Authorised Officer under the Scheme of Delegation

Delegated Report

Report to: **Delegated Decision**
Date of Report: **08/06/2011**
Report by: **Area Manager (Planning & Building Control)**

Application No CL/11/0109
Planning Proposal: Erection of one and a half storey detached dwellinghouse

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Kevan Whitelaw
- Location : 96 Lawhill Road
Law
ML8 5EZ

2 Decision

2.1 Refuse Detailed Planning Permission (based on the reasons attached)

2.2 Other Actions/Notes

None

3 Other Information

- ◆ Applicant's Agent: A1 Architectural Design Ltd
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (adopted 2009)**
RES 6: Residential Land Use
Policy ENV 31: New Housing Development
Policy DM 5: Sub-Division of Garden Ground
- ◆ Representation(s):
 - ▶ 3 Objection Letters

- ▶ 0 Support Letters
- ▶ 0 Comments Letters
- ◆ Consultation(s):

Roads and Transportation Services (Clydesdale Area)

Planning Application Delegated Report

1 Material Considerations

- 1.1 The application site relates to the garden ground of a single storey detached dwelling located in a residential area at 96 Lawhill Rd in Law. The proposal involves the sub-division of the side garden area to form a houseplot and subsequent erection of a one and half storey, two bedroom detached dwelling. The house is rectangular in shape and measures 7 m in width, 12 m in length and 5.7 m in height from ground level to the roof pitch. The plot area is 338 m². The side roof, adjacent to the donor house, will contain a dormer providing light for a stairwell and a bedroom velux window. The walls will be finished in render and brick whilst the upper gables will feature timber stained cladding. One side gable is positioned approximately 3m from the gable of the existing house and 1 m from the newly formed mutual boundary. The other gable is positioned approximately 2m back from the boundary with existing houses in Swan Way. The access of the existing house will be relocated and a separate access will be formed to serve the proposed house. A parking area will be laid out in the front curtilage.
- 1.2 In the South Lanarkshire Local Plan the site is identified as lying within a Residential Land Use Area where Policy RES 6: Residential Land Use opposes any development which would be detrimental to amenity. Each application will be judged on its individual merits with particular consideration given to the impact upon residential amenity and proposed servicing and parking arrangements. The character and amenity of the area must not be impaired by reason of traffic generation, parking, visual intrusion or noise. The proposed development must relate satisfactorily to the adjacent and surrounding development in terms of scale, massing, materials and intensity of use. Policy ENV 31: New Housing Development requires that all proposals respect the local context, ensure provision of appropriate levels of amenity space, waste storage and avoid conflict with adjacent land uses.
- 1.3 Policy DM 5 'Sub-Division of Garden Ground' has a presumption against the development of a new house within the curtilage of an existing house unless a number of criteria can be met, the most salient of which are as follows:
 - a) The proposed house plot and that remaining to the existing house are comparable with those nearby in terms of size, shape and amenity (ie the proposal accords with the established pattern of development in the surrounding area).
 - b) The proposed house(s) will have a proper road frontage of comparable size with those of surrounding curtilages.
 - c) The garden space allocated to the proposed house and remaining for the existing house should be sufficient for the recreational, amenity and drying needs of the occupants.
 - d) The proposed development will not cause an unacceptable reduction in privacy to existing houses and will, itself, enjoy a degree of privacy comparable with surrounding dwellings.

- e) The proposed development will not overshadow adjacent properties to a degree which results in a loss of amenity or itself be adversely affected by overshadowing.
- f) The proposed house(s) must be of a scale, massing, design and materials sympathetic to the character and pattern of development in the area and must not result in a development that appears cramped, visually obtrusive or be of an appearance which is so out of keeping with the established character that it is harmful to the amenity of the area.

2 Consultation(s)

- 2.1 **Roads and Transportation Services** – No objection subject to conditions. Initially there were concerns that the applicant proposed taking access from a speed calming table on Lawhill Road at its junction with Manse Court. It was therefore recommended that the applicant consolidate the access serving the proposed house with the existing access. A condition requiring the installation of adequate drainage should be attached.

Response: Noted. The applicant has submitted amended plans showing the relocation of the access away from the speed table. Roads and Transportation Services are satisfied with this arrangement.

3 Representation(s)

- 3.1 Following neighbour notification, three letters of objection were received from the occupants of nos 19, 21 and 23 Swan Way which adjoin the southern boundary of the site. The points raised can be summarized as follows:
- 3.2 **a) The proposal will have a detrimental effect on the use and privacy of the garden.**

Response: The locality is characterised by high density residential estates where there will always be a degree of overlooking. There are no side ground floor elevational windows and the presence of a high leyandii hedge could protect neighbouring properties from being overlooked by ground floor windows on the rear elevation if it is retained. Originally a window was proposed on the upper floor rear gable however this has been removed and replaced with a velux window on the roof. The dormer on the roof relates to a stairwell window. However I would agree that the mass and scale of the house in close proximity to neighbouring properties in particular nos 21 and 23 Swan Way would undermine the ability of the occupants to properly enjoy their gardens due to the sheer physical presence of the proposed building and roof.

b) The rear window and doors will not only overlook the garden but also into the house therefore invading privacy.

Response: The proposal can meet the Council's standards on privacy in that there will be no directly facing habitable windows in the house that would overlook adjoining properties. As stated above an upper floor window on the rear gable has

been removed thereby removing a potential source of overlooking. In view of this I am satisfied that privacy will not be compromised.

4 Assessment and Conclusions

- 4.1 The applicant seeks detailed consent for a one and a half storey detached dwelling. The main issues in determining the application are whether the proposal complies with local plan policy, its impact on residential amenity and the adequacy of the access and parking arrangements.
- 4.2 The application site is located in a high density residential area where there is a mixture and variety of houses, garden sizes and frontages. The proposed house is in keeping with the residential character of the area and the plot would not appear at odds with the established character of the area as it would have a proper road frontage and the garden provision is comparable with the average garden in the surrounding neighbourhood. Sufficient garden space will be left to the existing house after sub-division and as noted above neighbouring privacy will not be compromised. Overshadowing is not deemed to be problematic due to the orientation of neighbouring dwellings. The design is simplistic yet attractive and would integrate reasonably well in the context of its surroundings. In consideration most of the criteria outlined in Policy DM 5 can be complied with.
- 4.3 However this in itself does not diminish the amenity concerns in respect of the impact upon neighbouring properties. The gable to gable distance between the proposed and donor dwellings is only 3m and from the proposed house to the mutual gable only 1 m. This does not meet guidelines in the Council's residential development guide which recommends distances of 4m and 2m respectively. Although there are examples in the locality of such close proximity the majority of dwellings have wider separating distances. In terms of the impact upon adjoining properties, No 21 Swan Way has a narrow rear garden with limited depth. The side and rear elevations of the proposed dwelling would sit uncomfortably close to the side boundary and loom over this small garden to an unacceptable degree. The physical presence of the mass of the building would have an adverse effect upon residential amenity. The amenity of no 23 Swan Way would be affected to a lesser extent as a result of its larger rear garden, however the impact would still be considerable due to the close presence of the side elevation and roof of the proposed house. The existing leylandii hedge along the mutual boundary would mask the impact to an extent but not sufficient to remove the effect to a satisfactory degree. However it is doubtful in any case whether the feature would survive development so close to its roots system and therefore the potential to mitigate the impact of the proposal is likely to be lost. The impact on amenity would be unacceptable and there are no design measures nor opportunities to re-site the house which could be introduced to minimize the visual impact due to the constraints of the site. Therefore the proposal contravenes Policy DM 5.

- 4.4 In terms of Policy RES 6 adequate access and parking arrangements can be accommodated which are acceptable to Roads & Transportation Services. However relative to neighbouring properties as described above (see para 4.3) the proposed dwelling would be visually intrusive and be detrimental to amenity. Therefore the proposal contravenes Policy RES 6.
- 4.4 In compliance with Policy ENV 31 appropriate levels of amenity space can be provided and the design respects the local context. However the Policy also emphasizes the need to avoid conflict with adjacent land uses and as outlined earlier the mass and scale of the elevations of the proposed dwelling would have a dominating and undesirable impact upon the amenity of neighbouring dwellings to the south. Therefore the proposal contravenes Policy ENV 31.
- 4.5 After carefully considering all aspects of the proposed development relative to its surroundings I am of the opinion that neighbouring amenity would be compromised to an unacceptable degree. In view of these concerns, I consider that planning consent be refused.

5 Reason for Decision

- 5.1 The proposal would have an adverse impact on residential amenity and it does not comply with Policies RES 6, ENV 31 and DM 5 the South Lanarkshire Local Plan (adopted).

Signed:
(Council's authorised officer)

Date:

Previous References

- ◆ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans

- ▶ Consultations

- ▶ Representations
 - Representation from : Mr I Hughes, 23 Swan Way
Law
ML8 5HS, DATED 04/04/2011

 - Representation from : Mr & Mrs A Dickson, 19 Swan Way

Law
ML8 5HS, DATED 04/04/2011

Representation from : Mrs M Jarvie, 21 Swan Way
Law
ML8 5HS, DATED 04/04/2011

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 : CL/11/0109

REASONS FOR REFUSAL

- 1 This decision relates to drawing numbers:
L (2-) 001,L (2-) 002 Rev A,L (2-) 003 Rev A,L (2-) 004 Rev C,L (2-) 005 & L (2-) 006 Rev B.
- 2 The proposal is contrary to Policy RES 6 the South Lanarkshire Local Plan in that the close proximity of the proposed dwelling to neighbouring properties and the scale and massing of the proposed development will result in visual intrusion and have an adverse impact upon residential amenity.
- 3 The proposal is contrary to Policy DM5 of the South Lanarkshire Local Plan in that the proposed dwelling by reason of its scale, massing and position relative to adjoining dwellinghouses will appear visually obtrusive in the context of neighbouring properties, to the detriment of the residential amenity of the occupiers of these properties.
- 4 The proposal is contrary to Policy ENV 31 of the South Lanarkshire Local Plan in that the dominating physical presence of the proposed dwelling relative to adjacent properties will have an adverse impact upon residential amenity.