

Appendix 6

Further Representations

Further Representation From

- ◆ Statement of Observations from Planning Officer on Applicant's Notice of Review

STATEMENT OF OBSERVATIONS

Planning Application No EK/17/0254

Erection of Boundary Fence (Retrospective)

35 Millar Street, Glassford

1 Planning Background

1.0 A planning application (Planning Ref No: EK/17/0254) was submitted by Mr & Mrs Young to South Lanarkshire Council on 12 July 2017 seeking detailed planning permission for the erection of a garden boundary fence within the rear garden of 35 Millar Street, Glassford. The fencing had been erected without planning permission. This was brought to the Council's attention by a local resident who wrote to the Planning Service, concerned about the appearance of the fence, which is located within the Glassford Conservation Area. The Council's Monitoring & Enforcement Officer for the area contacted Mr & Mrs Young and requested that a retrospective planning application be lodged for determination. After due consideration of this application, in terms of the Local Development Plan and all other material planning considerations, the planning application was approved subject to conditions under delegated powers on 25 August 2017. The report of handling dated 22 August 2017 explains the decision and the reason for imposing the conditions listed in the decision notice.

1.1 The conditions imposed were as follows:

1) That no consent is hereby granted for the existing colour of the stained finish to the fencing.

Reason: The colour of the retrospective fence is unacceptable.

2) That within 1 month of the date of this consent the applicant shall submit samples of an alternative dark wood stain finish for consideration and approval by the Council. Thereafter, and within 3 months of the date of this consent, the applicant shall paint the fencing using the agreed woodstain colour to the satisfaction of the Council as Planning Authority.

Reason: In the interests of amenity and to safeguard the character of the Conservation Area

2 Assessment against the development plan and other relevant policies

2.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended requires that an application for planning permission is determined in accordance with the development plan unless material considerations indicate otherwise.

2.2 The development plan in this instance comprises the South Lanarkshire Local Development Plan (adopted 2015) and the associated Supplementary Guidance documents. The site is identified as being located within the residential settlement where Policy 6 – Development Management and Placemaking applies. This policy as well as Policy 4 - Development Management & Placemaking and DM2 – House Extensions, resists development that will have significant adverse amenity impacts

on the local community in terms of matters such as location, scale, design and materials. In addition, as the site lies within the conservation area Policy NHE7-Conservation Areas is also relevant. This policy states that development within a conservation area should preserve and enhance its character with the design, materials, scale and siting of any development being appropriate to the character of the conservation area.

- 2.3 Following a detailed assessment of this development, the Planning Service was content that the fence had no significant adverse impact upon residential or visual amenity in the local area. Generally, garden boundary fences of up to 2 metres in height are a common form of householder development, however, in this instance the property lies within Glassford Conservation Area, and therefore the retrospective fencing required planning permission. While the fencing is partially concealed by mature vegetation and trees along the north-eastern boundary, the other sections of fencing, which are mainly internal to the rear garden of 35 Millar Street are visible from the residential cul-de-sac of Greenbank Crescent, which is accessed from Millar Street. The majority of the fence is approximately 1.8m in height, with a smaller section measuring 1.15m in height. It was considered that the fence has marginal impact in terms of the amenity of neighbouring properties or the wider Conservation Area as the fence is located to the rear of the row of traditional properties on Millar Street. Notwithstanding this however, while the fence had been finished to an acceptable standard the applicants had treated the fencing with a cedar red timber paint which was considered to be incongruous in the Conservation Area. It was therefore considered that planning consent should be granted subject to a condition to require an alternative dark stain colour to be used as a final finish to the fence. It was the opinion of the Planning Service that the fencing, once repainted, would not adversely impact upon visual amenity, and in particular would not adversely affect the character of the conservation area.

3 Observations on appellant's 'Notice of Review'

- 3.1 The appellant has submitted a statement to support their review. The grounds are summarised below:
- a) **Appellant was advised that the rear garden was not in the conservation area. The application was retrospective for a fence because they were advised by a planning officer dealing with a previous application that the rear garden was not in the conservation area but applied after it was brought to their attention that permission was required for this work. Response:** It is unfortunate that this information appears to have been given to the appellant. However, the fencing does lie within the conservation area and as it was brought to the Council's attention, the Council were required to request the appellants to regularise the matter by applying for planning permission retrospectively. As previously stated, the principle of the fencing is acceptable, however it was considered that the painted finish should be changed to a more appropriate colour, hence the imposition of the conditions

- b) **The red cedar colour was chosen to blend in with the appellant's garden huts which are painted in the same shade.**

Response: The boundary fencing is significantly visible, whereas the existing huts are internal to the garden and therefore are not as visible. It is considered that the extent of the fencing in this colour is unacceptable within the conservation area and affects the character of the conservation area. A more appropriate dark stain would improve the appearance of the fence which has been erected.

- c) **No objections were received in respect of the planning application.**

Response: Statutory neighbour notification was undertaken by the Council and it is correct that no objections were received to the planning application. Notwithstanding this, the Planning Service, having considered the application on its own merits concluded that the location, height and style of the fence were acceptable, but the colour should be altered to improve the overall appearance and to preserve the character of the conservation area. Therefore the use of conditions in this instance was considered an appropriate measure.

- d) **If Planning Permission had been sought prior to erecting the fence, no such condition would have been attached.**

Response: Planning conditions were imposed to control the appearance of the erected fence. If the Planning Service had been given the opportunity to fully consider the proposed fence through the submission of a planning application, prior to the works being carried out, it is likely that dialogue between the planning officer and the applicants would have taken place to agree the colour and finish of the fence. It would have been dependent upon the outcome of such discussion, together with the amount of information supplied on the drawings, whether or not it would have been considered necessary to control any aspect of the development through the imposition of conditions.

- e) **Similarly coloured soffits and wooden facings exist within the conservation area, for example the village hall, and the church railings are painted a very similar colour.**

Response: Each application is considered on its own merits and is assessed against the current adopted local development plan policies and the associated supplementary guidance. Other local examples may be historical or may be less obtrusive or may be outwith the conservation area. As stated above, the principle of the fencing was acceptable and the planning permission was issued. However, it is considered that in this instance, the visual appearance of the fencing could be improved if it is painted a dark stain. This would help preserve the character of the conservation area at this location.

- f) **A dwelling within Greenbank Crescent is painted terracotta. Arguably, the red cedar painted fence is in keeping with this property.**

Response: The dwellings within Greenbank Crescent lie outwith the conservation area. The fact is that the appellant's property falls within the conservation area and therefore stricter policies apply with regard to development management. In this instance it is considered that the fencing

should be painted a dark stain as currently it is a bright cedar red which detracts from the appearance of the conservation area.

4 Conclusions

4.1 In summary, while it is accepted that the fencing has no significant adverse impact upon amenity and that it generally complies with the relevant local development plan policies and guidance, it is considered that the granting of planning consent subject to conditions to require an alternative dark stain colour to be used as a final finish to the fence, was an appropriate measure and the correct decision. It is the opinion of the Planning Service that the fencing, once repainted, would not adversely impact upon visual amenity and would preserve the character of Glassford Conservation Area. The granting of retrospective planning consent was therefore considered justified.

The Planning Authority therefore respectfully requests that the Review Body dismiss the appeal to remove the conditions imposed on the planning consent.