

Appendix 6

Notice of Review Process – Further Submissions

Submission From

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

STATEMENT OF OBSERVATIONS

Planning Application No: 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

1.0 Planning Background

- 1.1 Mr John Lawrie submitted a planning application for retrospective planning permission (CL/10/0152) in February 2010 to South Lanarkshire Council for the erection of feature entrance walls and pillars, erection of garden fencing and the erection of a glazed garden building. The application was only registered on 9 April 2010 due to issues with the delineation on the plans of the application site boundary, and the proper serving of ownership notification.
- 1.2 After due consideration of the application in terms of the Development Plan and all other material planning considerations, the planning application was refused by the Council under delegated powers on 7 June 2010. The report of handling dated 4 June 2010 explains the decision and the reasons for refusal are listed in the decision notice. These documents are available elsewhere in the papers.
- 1.3 The application was submitted as a result of correspondence between the Council and the appellant which began in September 2009 on a number of matters relating to the non-discharge of conditions attached to an earlier planning consent (for the development of two new dwellings to the rear of the farm steading at West Millrigg, CL/06/0562). At that time Mr Lawrie was also advised that the walls and pillars, fences and garden building did not comply with the original consent and required a planning application.

- 1.4 Under separate enforcement proceedings two “Breach of Condition Notices” were served on the appellant, Mr John Lawrie, on April 2010 for failure to create a passing place of acceptable standards along the access to West Millrigg, and the failure to plant the previously agreed landscaping of trees and hedging which was to extend along the entire boundary of the developments at West Millrigg. As a result of this Notice the landscaping was completed by May 2010.
- 1.5 Following from the issue of the decision notice a meeting was held with the appellant’s agent, during which the Council advised that the feature walls and pillars would be considered acceptable if they were reduced to 1 metre in height as the current arrangement obscures the visibility splays and is cause of concern to Roads and Transportation Services. Similarly, it was advised that the ranch style timber fences would be acceptable immediately between nos. 1 and 2 West Millrigg with the express intent of providing privacy albeit this style of fence is not appropriate for general boundary treatment in the rural area. Discussions also occurred about the position of the glazed garden building, and the Council advised that its repositioning may be considered subject to the provision of drawings to demonstrate how this could be achieved. To date no amended plans or drawings have been submitted.

2.0 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 adopted South Lanarkshire Local Plan, which identifies West Millrigg and the wider Wiston area as lying within the Accessible Rural Area where policies STRAT 4 and CRE 1 apply. These policies address the environmental quality of the area and require development to recognise its visual importance. The site also lies within the Regional Scenic Area where policies ENV 4: Protection of the Natural and Built Heritage and ENV 29: Regional Scenic Area and Areas of Great Landscape Value are applicable. These relate to the importance of the natural environment and the impact development may have on the appearance and character of such areas. Policy ENV 34: Development In the

Countryside contains a range of criteria against which development proposals can be comprehensively assessed. Amongst the things to be considered are the scale and design of new buildings ensuring that they complement and enhance the surrounding landscape, the impact on the views into and out of the site, and the retention or reinstatement of boundary features. Policy DM 1 provides detailed guidance on householder proposals such as extensions and associated alterations, the erection of garages, porches, garden sheds, greenhouses and walls or fences.

2.3 Taking these policies into account and following a site assessment, I am satisfied that the glazed garden building does not enhance the development group at the former farm steading of West Millrigg, and instead introduces a feature which is at odds with the traditional building styles and the rural character of the area. In relation to the feature walls and pillars, the appellant has already been advised that their height reduction would be acceptable and all that remains would be for a timescale for the work to be agreed.

3.0 **Other Material Considerations**

3.1 Other material considerations which are relevant in the assessment of this application are the Council's Rural Building Conversion and New House Design Guide for new dwellings in the rural area. The Rural Building Conversion and New House Design Guide provides specific design advice on converting traditional rural buildings to residential use and also on the siting and design of new housing in rural areas. Its purpose is to encourage good quality design and to ensure that new dwellings fit well in the landscape and are sympathetic to the traditional building and architectural characteristics of South Lanarkshire. It includes guidance that refers to the retention of existing natural features on sites and on ensuring that the size and shape of a plot is appropriate.

3.2 The steading at West Millrigg has been the subject of a number of developments since 2006 resulting in the erection of 2 new houses with detached garages and the conversion of 3 steading buildings to dwellinghouses. In addition, detailed consent has also been granted for the erection of a dwellinghouse and garage on ground to the front of the farm, though development has yet to commence. Each of the planning consents for conversion or new build included conditions removing the Permitted Development Rights and restricting the boundary features.

4.0 Observations on applicants 'Notice of Review'

4.1 The applicants have submitted a Notice of Review to support their review. The grounds of review are summarised below.

(a) 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 an unobtrusive outbuilding (under 24 sq m and no taller than 4 m in height) within the curtilage of an unextended dwelling. The appellant is correct in this assertion but failed to realise that the Permissible Development 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.

Response: It is inconceivable that the appellant, Mr Lawrie was unaware of the conditions or the removal of Permitted Development Rights from the planning consents, as he has been involved from the outset in the redevelopment at West Millrigg, being granted planning permission 3 times since October 2006 for the erection of a total of 3 new build dwellings. Each planning application has had the Permitted Development Rights for buildings/extensions within the domestic curtilage removed and the style of fences restricted. Mr Lawrie's company undertook all the construction works for these dwellings in addition to the conversion of the farm steading buildings into 3 dwellings.

The primary reason for the removal of the Permitted Development rights was the need to impose an appropriate level of control over the erection of small scale development such as outbuildings, and fencing in order to maintain a sense of cohesion at West Millrigg, to re-establish traditional boundary styles and in recognition of the area's sensitive landscape setting.

(b) 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 delegated report states that there is "no opportunity to utilise planting of a sufficient stature to screen it." It is not known what arboricultural or horticultural advice the planner received before forming this opinion. A landscaping proposal was required as a condition attached to the

consent, which was to incorporate hedges reinforced with tree planting. 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. The garden building is built close to the boundary, but there remain various options for screening such as forming a living willow structure or using creeper plants.

Response: The garden building is highly visible due to its position on higher ground some 20 metres to the rear of number 2 West Millrigg. The farm steading is visible for long distances due to its isolated position at the foot of Tinto, and there are also clear views of the garden building from public roads. The appellant recognises, above, that the landscaping scheme which was a requisite of the original planning consent was intended to establish shelter for the building group, as was common practice at farms in the area. The building is unscreened by any natural vegetation, and it is unlikely that any of the recent tree planting that has been undertaken, following the Breach of Condition Notice, will assist due to the sheer proximity of the building to the site boundaries. With regards to the suggested use of alternative planting species to hide the building, I would comment that willow is not a species generally associated with moorland farms or the Tinto area and forming a living screen may draw further attention to it. The use of creeper plants would also be unusual at this locality and on this scale for screening purposes. The implication that the visual impact of the structure would only be acceptable if fully screened also raises a question over its appropriateness in such an exposed location.

(c) The issue of precedent has been used as one of the reasons for refusal, but each and every application is taken on its own merits. Should this garden building and fence generate similar applications then these applications should be assessed against the particular conditions and policies relevant to their specific sites. It is worth noting that no such similar applications have been made despite the works having been complete for approximately a year.

Response: As highlighted by the appellant above (para 4.1(a)) applications would not normally be required for the erection of ranch style or timber fencing, or for the erection of a garden building of this size. However, at West Millrigg it was recognised that the landscape setting is a feature worthy of protection, and given the piecemeal ownership that would result once all the dwellings had

been sold, a degree of control would be necessary to ensure the rural character of the farm would not be eroded. The Permitted Development Rights were therefore removed.

Should further applications for fences or garden buildings be submitted in the immediate vicinity, they too would be assessed against the policies of the adopted local plan and their siting be considered in relations to the views of West Millrigg in the wider landscape. Should this application have been granted, it would be harder to justify refusal of any subsequent similar applications, hence the use of the term “precedent.” Indeed, a recent visit to the site has highlighted a number of other unauthorised buildings at West Millrigg, and it is apparent that the visual amenity of the farm steading and wider area is being eroded by small scale incremental change. Approval of this application may also hamper the Council’s ability to take enforcement action where necessary in order to regularise other unauthorised development in the locality.

(d) The only reason for refusing the feature walls and pillars relates to road safety. Their design and construction has 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.

Response: It should be noted that, even if there were no road safety issues, planning permission would still be required, as consent is necessary for any walls or fences over 1 metre in height which lie within 20 metres of a road.

Roads and Transportation Services have advised that the feature walls and pillars obscure the visibility in both directions for vehicles exiting West Millrigg, with the position of the pillars causing a particular problem. The dry-stane dyke effect walls and pillars are located at the junction of the farm access with the B7055, and are 6 metres in length. The pillars are 1.5metres high and the walls are approximately 1.15 metres. Rather than seeking the total removal of the pillars, Roads and Transportation Services have suggested a more pragmatic solution involving the reduction in wall height to one metre, by removing one course of stone, thereby allowing drivers to see over the top of the walls. This would be acceptable at this location due to the road topography and traffic numbers. The applicant's agent was advised of this by letter in May 2010.

(e) The appellant has not skimmed on the materials or workmanship in the garden building choosing to use expensive natural slate and timber cladding to ensure a strong visual coherence with other buildings in the development. However the planner considers that the choice of materials “is at variance with the traditional buildings in the area”. 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.

Response: The glazed garden building erected in the north-east corner of the garden at 2 West Millrigg has been formed from timber framing, a hipped and slated roof, with two full glazed elevations, and full width windows on a third elevation.

Despite there now being a number of dwellings at West Millrigg, careful attention has been given to external finishes to ensure that they reflect those used on the original buildings. Historically, farms such as West Millrigg would have utilised materials that were readily available in the locality for building, and being situated on the edge of moorland at the foot of Tinto, natural stone was the material of choice. The original farmhouse also features render on two elevations, perhaps where there were problems with water ingress or to add visual importance to the farmhouse. The three conversions have been sensitively finished in local natural stone and render, and reflect the Scottish building style of having a greater ratio of solid walls to glazed elements. The new build houses also utilise these ratios whilst having a render finish to all walls. None of the buildings at West Millrigg feature timber cladding or such amounts of glazing.

(f) The garden building is smaller than the detached garages which were approved and therefore deemed to have been an appropriate size for this rural location. Approval was granted recently for an extended garage with floored storage elsewhere on the site. At no time was the size of these detached buildings considered a barrier to approval. Whilst the building is on slightly higher ground it is not likely to break the skyline given its backdrop of rolling hills and mountains.

Response: The detached garages referred to by the appellant formed part of the original consent to erect the two new dwellinghouses. The garages lie immediately adjacent to the properties, are aligned with the back building line and sit at the same level as the houses. The third garage referred to, relates to an unconstructed new dwelling and the application was for an amendment to its

garage style and position; nonetheless it is still closely related to its dwelling, being within 5 metres and aligned with other buildings in the immediate vicinity. The garden building which is the subject of this appeal, lies over 16 metres away from the house, 2 West Millrigg and sits on noticeably rising ground. The area around West Millrigg is characterised by long open views, and when viewed from the public road, the garden building appears prominent.

(g) Although mentioned in three 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 fence is “at odds with the rural setting”, however the report does not explain why a style of fencing acceptable at one part of the site should be at odds when it is reduced in height at a different part of the site.

Response: The planning consents which were issued for the erection of new dwellings at West Millrigg had conditions attached limiting the style and height of fences to 1 metre high stob and wire. This has been complied with around the eastern and northern (rear) boundary of number 2 West Millrigg, but the ranch style fencing runs the entire length of the common boundary between 1 and 2 West Millrigg, as well as part of the way along the western boundary of 1 West Millrigg. This style of fencing is not appropriate for this rural area, appearing as an incongruous suburban feature where the conditional planning permission sought to re-establish traditional boundary features of wire fencing reinforced with hedges and shelter-belts of trees.

However, at a meeting subsequent to the issue of the refusal notice, the applicant's agent was advised that timber close boarded fencing up to 1.8 metres in height would be acceptable between the houses to provide screening for privacy reasons i.e. adjacent to the patio areas.

(h) 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, and actually helps to incorporate it into the landscape by reflecting the scenery around it., and allowing users to interact with the landscape. It is sympathetic to vernacular patterns of scale and proportion and in this regard can be seen to comply with Policies ENV 34 and DM1.

Response: The vernacular architecture of the Wiston area is one of low, long rectangular stone built buildings in close groups, which utilise the topography to provide natural shelter. At West Millrigg this is exemplified by the old steading buildings having their longest elevation orientated west/east to provide shelter for the original farmhouse, and working with the natural slope of the site. The glazed garden building lies outwith the newly reformed building group, some 16 metres further uphill from 2 West Millrigg; it is therefore at odds with the development pattern.

The building has two fully glazed elevations, and another with full width windows which will provide the users views of the landscape. However the local architecture recognised that the climate and prevailing wind of such exposed rural sites dictates the positioning, and amount, of glazing in buildings.

A further line of timber fencing 1.8 metres high has been formed on the western side of the garden building, perhaps to act as a screen or to deflect the prevailing wind.

5.0 Conclusions

5.1 In summary, the three individual elements – the feature walls, the timber fence, and the garden building are not acceptable in their current form or position. The Council maintains that the current proposals do not comply with the policies of the adopted local plan due to their visual impact on the rural character of the area. However, in this instance the Planning Authority have suggested amendments which if implemented would render two elements of the proposal acceptable. In relation to the feature walls at the entrance to West Millrigg, the Council reiterates the suggestion that the top course of stone be removed to reduce the height of the wall, thereby providing acceptable visibility splays for drivers exiting the site. In relation to the timber fence, its use between the dwellings numbers 1 and 2 West Millrigg only, is considered acceptable as this fence is not visible to the wider area. However, the Council advises that the glazed garden building and associated 1.8m timber screen fence is not acceptable due to its prominent and inappropriate siting, its visual impact on the farm steading and the wider landscape, and the precedent that it has set to other occupiers in the development. Subsequently, the Planning Authority therefore requests that the Review Body refuse planning permission.