



Council Offices, Almada Street,
Hamilton

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/EK/17/002

- ◆ Site address: 35 Millar Street, Glassford, Strathaven ML10 6TD
- ◆ Application for review by Mrs Young of the decision by an appointed officer of South Lanarkshire Council to impose conditions on the granting of planning permission for planning application EK/17/0254
- ◆ Application EK/17/0254 for the erection of a boundary fence (retrospective)
- ◆ Application Drawings: Young/2017/01A, Young/2017/02, Young/2017/03, Young/2017/04, Young/2017/05

Decision

The PLRB varies the decision taken by the appointed officer, in terms of the Scheme of Delegation, to grant planning permission for planning application EK/17/0254 subject to the conditions detailed on the Council's decision notice dated 25 August 2017 and grants planning permission for planning application EK/17/0254, subject to the conditions attached to this decision notice.

Geraldine McCann
Head of Administration and Legal Services

Date of Decision Notice:

1. Background

- 1.1 This Notice constitutes the formal decision notice of the Planning Local Review Body (PLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for planning permission (retrospective) was considered by the PLRB at its meeting on 20 November 2017. The PLRB was attended by Councillors Alex Allison, John Bradley, Walter Brogan, Jackie Burns, Isobel Dorman (Depute), Fiona Dryburgh, Alistair Fulton (Chair), Mark Horsham, Richard Nelson and Graham Scott.

2. Proposal

- 2.1 The proposal is for the erection of a boundary fence (retrospective) at 35 Millar Street, Glassford, Strathaven.
- 2.2 The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

3. Determining Issues

- 3.1 The determining issues in this review were:-
- ◆ the proposal's compliance with the Adopted South Lanarkshire Local Development Plan (SLLDP) and Supplementary Guidance (SG)
 - ◆ impact on the character and appearance of the Conservation Area
- 3.2 The PLRB established that, in terms of the Adopted South Lanarkshire Local Development Plan, the site was located within a Conservation Area. The following policies applied to the application site:-
- ◆ Policy 4 – development management and place-making
 - ◆ Policy 6 – general urban area/settlements
 - ◆ Policy 15 – natural and historic environment
 - ◆ Policy NHE7 – conservation areas
 - ◆ Policy DM2 – house extensions and alterations
- 3.3 Policy 4 states that all planning applications will require to take account of and be integrated with the local context and built form.
- 3.4 Policy 6 states that developments will not be permitted if they are detrimental to the amenity of residents. Each proposal will be judged on its own merits, with particular consideration given to the impact on the amenity of the area.
- 3.5 Policy 15 states that the Council will assess all development proposals in terms of their effect on the character and amenity of the natural and built environment. In Conservation Areas, development which would affect these areas, following the implementation of any mitigation measures, will only be permitted where there is no significant adverse impact on the protected resource.
- 3.6 Policy NHE7 states that development and demolition within a Conservation Area or affecting its setting shall preserve or enhance its character and be consistent with any relevant conservation area appraisal or management plan that may have been prepared for the area.
- 3.7 Policy DM2 states that house extensions and alterations will be considered favourably where it can be demonstrated that the proposal complies with the following relevant criteria:-
- ◆ the siting, form, scale, design and materials respect the character of the existing dwelling and the wider area
- 3.8 In considering the case, the PLRB had regard to the applicant's submission that:-
- ◆ the application was retrospective because they had been advised by a Planning Officer, dealing with a previous application, that the rear garden was not in the Conservation Area
 - ◆ the colour of the fence was chosen to blend in with the applicant's garden huts which were the same shade and it was also in keeping with a dwelling in Greenbank Crescent which was painted terracotta

- ◆ if planning permission had been sought prior to erecting the fence, no such condition would have been attached. The applicant believed that she had been discriminated against
- ◆ there were no objections or comments made to the planning application
- ◆ other buildings and railings within the Conservation Area had been painted a similar colour and this had set a precedent
- ◆ the fence was well screened from view by trees and Greenbank Crescent was a cul de sac in which there was minimum traffic as it was not a through route

3.9 Following its review of the information, the PLRB concluded that, in the interests of amenity of the area and to safeguard the character and appearance of the Conservation Area, condition 1 of planning consent EK/17/0254 should not be removed. The PLRB, however, noted that the application was retrospective, as it appeared the applicant was incorrectly advised that planning permission was not required for the proposal and, consequently, a significant amount of the fence had been stained.

3.10 Taking account of the above, the PLRB considered that it was reasonable and appropriate to afford the applicant additional time to comply with the terms of the condition requiring the colour of the staining to be changed. The PLRB, therefore, considered that the applicant should be allowed 12 months in which to agree a new finish and 15 months to undertake the agreed works and that planning condition 2 be varied on this basis.

4. Conclusion

4.1 The PLRB considered a request to review the decision taken by the appointed officer, in terms of the Scheme of Delegation, to attach conditions to the grant of planning consent for planning application EK/17/0254 for the erection of a boundary fence (retrospective) at 35 Millar Street, Glassford, Strathaven.

4.2 The PLRB considered that, in the interests of the amenity of the area and to safeguard the character and appearance of the Conservation Area, condition 1 should not be removed. The PLRB further considered, however, that, as it appeared the applicant was incorrectly advised that planning permission was not required for the proposal and a significant amount of the fence had been stained, it was reasonable and appropriate to afford the applicant additional time to comply with the terms of condition 2 requiring the colour of the staining to be changed.

4.3 The PLRB, therefore, varied the decision taken by the appointed officer, in terms of the Scheme of Delegation, to grant planning permission for planning application EK/17/0254 subject to the conditions detailed on the Council's decision notice dated 25 August 2017 and granted planning permission for planning application EK/17/0254 subject to the undernoted conditions and reasons.

5. Accompanying Notice

5.1 Attached is a copy of the Notice to Accompany Refusal, etc in the terms set out in Schedule 2 to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

Application: EK/17/0254

Erection of boundary fence (retrospective) at 35 Millar Street, Glassford, Strathaven.

CONDITIONS

- 1 That no consent is hereby granted for the existing colour of the stained finish to the fencing.
- 2 That within 12 months of the date of the consent, the applicant shall agree, in writing with the Council, a dark wood stain finish. Thereafter, and within 15 months of the date of the consent, the fence shall be finished in the agreed stain to the satisfaction of the Council as Planning Authority.

REASONS

- 1.1 The colour of the retrospective fence is unacceptable.
- 1.2 In the interests of amenity and to safeguard the character of the Conservation Area.

INFORMATIVES

- 1 This decision relates to drawing numbers: Young/2017/01A; Young/2017/02; Young/2017/03; Young/2017/04; Young/2017/05.
- 2 Failure to comply with the conditions imposed on this planning permission can result in the planning authority serving a Breach of Condition Notice and/or Enforcement Notice. If any of the requirements set out in these notices are not then complied with, a fixed penalty notice may be served seeking the payment of the sum specified in the penalty notice to the Planning Authority. The sum will be as set by The Town and Country Planning (Amount of Fixed Penalty) (Scotland) Regulations 2009.
- 3 The person carrying out the development must give advance notice in writing to the planning authority of the date when it intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. [See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)]
- 4 As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position [See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)]
- 5 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)



NOTICE TO ACCOMPANY REFUSAL ETC

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.