

Appendix 5

Notice of Review (including Statement of Reasons for Requiring the Review) submitted by applicant Mr and Mrs Dunlop



For official use: NOR/ _ _ / _ _ / _ _
Date received by PLRB: _ _ / _ _ / _ _

Notice of Review

Under Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on local developments
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
The Town and Country Planning (Appeals) (Scotland) Regulations 2008

This notice requires to be served on the Planning Authority within 3 months of the date of the decision notice or from the date of expiry of the period allowed for determining the application which is set as 2 months following the validation date of the application

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your Notice of Review.

Please complete in BLOCK CAPITALS

Applicant(s) Agent (if any)

Name: MR & MRS FRASER DUNLOP

Name: NEIL GAINFORD MRTPI

Address: WESTSIDEWOOD
CARNWATH

Address: 8 WOODLANDS DRIVE
LANARK
LANARKSHIRE

Postcode: ML11 8LJ

Postcode: ML11 9FS

Contact Telephone 1: [REDACTED]

Contact Telephone 1: [REDACTED]

Contact Telephone 2: [REDACTED]

Contact Telephone 2: [REDACTED]

Fax No: [REDACTED]

Fax No: [REDACTED]

E-mail.* [REDACTED]

E-mail.* [REDACTED]

Mark this box to confirm that all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Application reference number: C L / 0 9 / 0 4 8 3

Site address: WESTSIDEWOOD FARM, CARNWATH, ML11 8LJ

Description of proposed development: FORMATION OF 1 No. HOUSE PLOT (IN PRINCIPLE)

Validation date of application: 04/11/09 Date of decision (if any): 29/04/10

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for requesting review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

In cases where the Planning Local Review Body considers that it has sufficient information, including the Notice of Review, the decision notice, report of handling and any further representations from interested parties, it may, under Regulation 12, proceed to determine the review. It is anticipated that the majority of cases the Planning Local Review Body deals with will fall into this category.

The Planning Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable it to determine the review. Further information may be required by one or a combination of procedures, such as written submissions, the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you consider most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- | | | | |
|---------------------------------|--------------------------|---|-------------------------------------|
| 1. Further written submissions | <input type="checkbox"/> | 3. Site inspection | <input type="checkbox"/> |
| 2. One or more hearing sessions | <input type="checkbox"/> | 4. Assessment of review documents only, with no further procedure | <input checked="" type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|--------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If there are reasons why you think the Planning Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement of reasons for requiring the review

You must state, in full, why you are requesting a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is, therefore, essential that you submit with your Notice of Review all necessary information and evidence that you rely on and wish the Planning Local Review Body to consider as part of the review.

If the Planning Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your Notice of Review and all matters you wish to raise. If necessary, this statement can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED STATEMENT OF REASONS

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

When the applicants lodged their planning application with South Lanarkshire Council they were of the view that the only documents relevant to the application were the Application Form, a Location Plan and a Site Plan. The applicants considered that all other considerations would either be self evident to the planning officer considering the proposal, or alternatively would be established through dialogue between the planning officer and the applicant.

The site is located on derelict and partly despoiled land within the Rural Investment Area. The applicants operate a highly specialised haulage business from Westsidewood and are possibly one of the largest private employers in the Rural Investment Area. There is an association between the proposed house and the continued operation of the business.

It is considered important that the Review Body should be aware of: (i) the general site conditions at the application site; (ii) the scale and significance of the business operated by the applicants; and (iii) the reason for the submission of the application.

These matters, which were not included in any documents lodged in support of the planning application are further considered in the attached Statement of Reasons for the Notice of Review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your Notice of Review and intend to rely on in support of your review.

PRODUCTION 1: Photograph: Kilnpothall spoil heaps as seen from Fordmouth Road
 PRODUCTION 2: Photograph: Review site as seen from the C37
 PRODUCTION 3: Photograph: Fly Tipping at Review Site
 PRODUCTION 4: Trailers parked at Review Site
 PRODUCTION 5: Fraser Dunlop Ltd promotional leaflet
 PRODUCTION 6: Photograph: Wind Turbine Blade negotiating junction in Enniskillen, N. Ireland.
 PRODUCTION 7: Photograph: Wind Turbine Blade being transported through Inverness.
 PRODUCTION 8: Photograph: Bandstand being installed for Glasgow City Council.
 PRODUCTION 9: Extract from Circular 6/1990
 PRODUCTION 10: Extracts From Scottish Planning Policy (February 2010)

Note: A copy of the Notice of Review, the review documents and any notice of the procedure of the review will be made available for inspection by prior appointment (Phone: 08457 406080) at the office of Planning and Building Standards Services, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB until such time as the review is determined. It may also be made available on the Council's website.

Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- 2 copies** of all documents, materials and evidence which you intend to rely on (eg planning application form, plans and drawings, decision notice or other documents) which are now the subject of this review.

Note. Where the review relates to a further application, eg renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed:



Date:

23 JULY 2010

This form and 2 copies of all supporting documents should be sent to:-

**Head of Planning and Building Standards Services
 Enterprise Resources, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB**

Email: enterprise.hq@southlanarkshire.gov.uk

Phone: 08457 406080

For more information or if you want this information in a different format or language, please phone 01698 455379 or send email to enterprise.hq@southlanarkshire.gov.uk

For official use

Date stamp)

Statement of Reasons for Notice of Review
Formation of 1 No. House Plot (In Principle)
at Westsidewood Farm, Carnwath, ML11 8LJ

Mr and Mrs Fraser Dunlop
Ref: CL/09/0483

1.0 INTRODUCTION

Site Description and Context

1.1 The application site extends generally to 0.18 hectares (0.44 acres) in extent and is situated off the C37 Braehead to Auchengray Road. The site is presently in use as a parking compound for trailers associated with the applicant's business which is based nearby. The site comprises part of the former Kilnpothall Ironstone Quarry (PRODUCTION 1: Photograph showing the adjoining Kilnpothall spoil heaps as seen from Fordmouth Road).

1.2 The area adjoining the C37 public road has been levelled and bottomed to form a hardstanding which now has been in use for many years as a trailer park. A gated access comprising padlocked seven-bar double gates secures the site from entry from the C37 public road (PRODUCTION 2: Photograph showing the Review Site as seen from the C37). The area of the site proposed for the construction of the house in part comprises the parking area for the trailers and in part comprises naturally regenerated mixed woodland.

1.3 The adjoining areas of the former quarry which have not been levelled or brought into effective use, variously comprise uneven spoil heaps which are now largely regenerated with self-seeded indigenous species and by associated depressions which have become the focus for illegal fly-tipping (PRODUCTION 3: Photograph showing the nature and extent of fly tipping).

1.4 The character of the surrounding area is typified by moorland pasture interspersed with woodland shelter-belts and punctuated with a dispersed pattern of small farms/ smallholdings and a more recent scattering of newer residential development promoted under the former Strathclyde Structure Plan '*remoter rural area*' planning policy. It is understood that few if any of the more recent developments allowed in the immediate vicinity of the Review Site have any direct connection with local land-use or businesses, or otherwise make a significant contribution to the local economy.

1.5 The site is well contained by existing tree cover (which it is proposed to retain) such that even the full impact of the trailer park is not evident to public view (PRODUCTION 4: Photograph showing the full extent and impact of the trailer park- only visible from an elevated position within the application site).

Background to the Application and to the Firm of Fraser Dunlop Ltd

1.6 The firm of Fraser Dunlop Limited was formed at Westsidewood, Carnwath in 1968 and has progressively developed into one of the most respected and specialised haulage companies in the United Kingdom. The firm has remained under the local control of the Dunlop Family for three generations and is still very much a family controlled business based in the Carnwath area. (PRODUCTION 5: Promotional Pamphlet explaining the Company's ethos and background).

1.7 All of the firm's drivers/operators are trained to the highest standards and are all recruited from the local area. As at July 2010 the company employs 15 persons making it one the most



specialised companies in South Lanarkshire and one of the largest private companies in the Auchengray area, and possibly the largest private company within the Rural Investment Area. The firm's reputation and personal attention to detail has contributed to the fact that the company has been able to withstand the effects of the recession and to date has been able to avoid any redundancies in its workforce.

1.8 The company is not a general haulage company but rather specialises in the transport of abnormal loads. Much of the company's work is focused towards renewable energy proposals and the firm boasts a track record and established contracts with national and international renewable energy companies throughout Europe.

1.9 Fraser Dunlop Limited has achieved notable success in obtaining contracts for the delivery of component parts (particularly the delivery of turbine blades) for renewable energy and wind energy installations throughout the United Kingdom, Northern Ireland and the Republic of Ireland (PRODUCTION 6: Photograph of Fraser Dunlop Haulage with a wind turbine blade negotiating an intersection at Enniskillen, Northern Ireland. (PRODUCTION 7: Photograph of Fraser Dunlop Haulage hauling a wind turbine rotor blade over the Kessock Bridge at Inverness). In addition to the particular contracts illustrated in the above photographs, the firm has successfully been involved in numerous other windfarm developments at Boyne and Tipperary (Republic of Ireland), Dunbar, Soutra, Doune, Girvan, Campbelltown, Whitelees and Blacklaw (Forth). In addition, Fraser Dunlop Ltd are regular contractors for Tarmac, Network Rail, Scottish Power and for the Edinburgh Tramline project. More specialist jobs in which the company has been involved include the transport of restored bandstands for Glasgow City Council (PRODUCTION 8: Photograph of restored bandstand being installed for the City of Glasgow), and the transport of the restored tram currently operating at Summerlee Heritage Park (North Lanarkshire).

1.10 Whilst the work undertaken by Fraser Dunlop Limited is little heralded, the specialist service and quality of service provided by this company contributes significantly to the economy of the Rural Investment Area and promotes the reputation which South Lanarkshire enjoys in the field of specialist contracting services particularly related to renewable energy developments.

Reason for the Application

1.11 The core of the business attracted by Fraser Dunlop Limited has been built up over the years through the partnership of Fraser and Rosemary Dunlop. Fraser remains the Managing Director of the Company and his wife Rosemary is the Company Secretary. Fraser and Rosemary are looking forward to progressively withdrawing from the day-to-day operation of the business and handing over the management of the company to their daughter Heather. Heather presently lives in Livingston, West Lothian.

1.12 Limited opportunity locally for housing has resulted in Heather being unable to obtain accommodation any nearer to the company's base and in consequence she has to commute daily from Livingston to Westsidewood in order to fulfil her management duties. The nature of the business requires that Heather is on call on a 24 hour basis. In the event of any out of hours emergency, Heather is required to drive from Livingston to the Westsidewood offices in order to deal with the situation. The mileage and transport costs incurred by these movements are inefficient and unsustainable. The construction of a new house at the Review Site would permit the flexibility to allow Heather to move to Westsidewood or to the new house in order to fulfil her management responsibilities. This arrangement would allow Fraser and Rosemary to continue to live in the area,

2.0 REASONS FOR REVIEW OF THE OFFICER'S DECISION

Officer's Decision is Unreasonable and Unsound

2.1 The Planning Act requires that decisions on planning applications should be made having regard to the development plan and to all other material considerations. The Delegated Report, on which the decision to refuse Application CL/09/0483 is based, only refers to planning policy as contained in the adopted South Lanarkshire Local Plan, and variously to material considerations in respect of the site conditions and to a previous planning decision based on a decision taken on the basis of a former development plan and former Government policies. It is submitted that an historic decision based on an outdated development plan and on superseded Government policies has little relevance to the determination of Application CL/09/0483. No reference is made in the Officer's Delegated Report to recent statements of Government planning policy which are material considerations and are most relevant to the determination of this application.

2.2 Various key statements of planning policy have been issued by the Scottish Government recently, many of which are not reflected in the adopted Plan. It is submitted that these key statements of policy (summarised below) ought to have been referred to in the Delegated Report and taken into account in the officer's decision. The Delegated Report makes no reference to relevant statements of Government planning policy.

2.3 Circular 6/1990 states that refusing an application solely on the grounds that it does not accord with the development plan, and failing to take into account relevant statements of Government policy of which the planning authority were aware, constitutes '*unreasonable behaviour*' and could qualify for an award of costs against the Council (PRODUCTION 9: Extract from Circular 6/1990). It should be clarified that in this case the appellant is not seeking an award of costs. The reference to Circular 6/1990 primarily serves to confirm that the officer's failure to recognise relevant key statements of Government planning policy was unreasonable, and that a decision taken on this basis is vulnerable to challenge as being unsound. The relevant planning policy issues which were not acknowledged in the Delegated Report are as follows:

Material Policy Considerations not taken into Account in the Delegated Report

SCOTTISH PLANNING POLICY (PRODUCTION 10)

2.4 The Scottish Planning Policy (SPP) document issued in February 2010 updates and consolidates most of the Scottish Government's planning policy statements over the last 35 years into one composite statement of national planning policy. In this respect the SPP is possibly the most significant planning policy document to be issued in the last 40 years and should be a consideration on decisions on planning applications (SPP Para 2). Several aspects of SPP (2010) are relevant to Application CL/09/0483 but none is referred to in the Delegated Report.

2.5 Three themes relevant to this Review run throughout the SPP: (1) Economic Competitiveness, (2) A Generous Supply of Land for Housing; and (3) The Need to Maximise the Re-use of Previously Developed Land. As the economic argument was not highlighted in the original planning submission, this statement will focus on the latter two issues.

2.6 The Scottish Government is committed to increasing the supply of new homes and the planning system has a key role in raising the rate of new housebuilding (SPP Para 66). Development plans should allocate land on a range of sites which is effective or capable of becoming effective to meet the housing land requirement up to year 10 from the predicted year of adoption. Forth is the only location in the Rural Investment Area where land is specifically zoned for housing in the South Lanarkshire Development Plan. Five sites with a total housing capacity of 107 houses are identified

in Forth. Other than Wilsontown (4 plots) no other housing land is specifically allocated in any other part of the Rural Investment Area.

2.7 The SPP clarifies (SPP Para 94) that the requirement for development plans to allocate a generous supply of land to meet housing requirements applies equally to rural and urban areas. This requirement was introduced after the adoption of the South Lanarkshire Local Plan and therefore it would be unreasonable to expect the adopted Plan to have anticipated this aspect of national policy. However it would be reasonable to expect that the Delegated Report would have recognised and acknowledged this change in Scottish Government policy and to have commented on whether the 107 houses identified in Forth satisfies the requirement in SPP (Paragraph 66) for “a generous supply of land for the provision of houses “in the right places”.

2.8 The SPP also requires that planning authorities should take a pro-active approach to encourage the re-use of previously developed land. The rural development policies of the SPP (Paragraph 93) emphasise that developments which provide employment benefits should be encouraged, particularly where they involve the imaginative and sensitive use of previously used land. In this regard, Mr & Mrs Dunlop’s proposal is wholly in accordance with Scottish Government planning policy. Planning authorities are also required (Paragraph 93) to promote and support opportunities for environmental enhancement and regeneration in rural areas, particularly areas of previous mining activity. These aspects of national planning policy, which are material planning policy considerations, were not taken into account in the Officer’s Delegated Report.

2.9 The Review proposal also draws support from the SPP in relation to the factors to be considered in respect of the location of new development. The SPP identifies 6 objectives (Paragraph 38) on which decisions on the location of new development should be based. The review proposal positively supports 5 of the 6 objectives. The remaining objective is not relevant to the Review proposal.

3.0 CONCLUSION

3.1 The sole reasons for the refusal of Planning Application CL/09/0483 relate to a perceived conflict with POLICY STRAT5 and POLICY CRE1 of the adopted South Lanarkshire Local Plan. No other planning policy considerations were taken into account in the Officer’s decision. Major changes in national planning policy have been introduced by the Scottish Government since the formulation of the policies contained in the adopted Local Plan. These new statements of national planning policy ought to have been taken into account in the Officer’s decision. It is submitted that the failure to recognise and to take these material planning policy considerations into effect, renders the Officer’s decision to refuse the application as being unreasonable and unsound.

3.2 An objective assessment of the SPP document (2010) shows the Review proposal to be wholly consistent with various aspects of current Government policy. It is submitted that the support which the proposal draws from Scottish Planning Policy and the benefit which the proposal offers to the local economy and environment are more than enough to outweigh development plan considerations.

3.3 The proposal has attracted no objections from statutory consultees and there are no valid objections from members of the public, few of which appear to be resident in the locality of the Review site.

3.4 The Review proposal offers only positive effects to the amenity of the area. The site has a history of mining activity and currently is in use as a trailer park. The replacement of the trailer park

use with residential use will not be any more intrusive visually, but will offer greater security and supervision against the fly-tipping activities from which the site and the immediate vicinity currently suffers.

3.5 The proposal will have no adverse impact on the character or amenity of the area. The character of the immediate area presently is typified by a scattering of isolated houses and farmsteads, and by groups of more recently constructed houses many of which appear to be unrelated to natural features. The Review site is surrounded by existing trees which could be augmented by planning conditions to require that the development is completely screened from public view. In this regard the proposal could be regarded as having a positive effect on local amenity.

3.6 It is regretted that no supporting information was submitted with the Planning Application to explain the reason for the proposal. However, no information was sought by the Council to clarify this matter. The proposal is required in connection with management changes within the firm of Fraser Dunlop Ltd. The specialist nature of the services provided by the company and the personal attention provided to each customer has ensured to date that the Company has withstood the worst effects of the recession. However, the Company recognises that management changes will be required in the years to come. The Review proposal is a response to these management changes.

3.7 My clients recognise the need for the Council to ensure that appropriate controls are placed on any development which may be allowed as an exception to normal development management policy. In this context I have been asked to clarify, in the event of the Review Body being favourably minded towards this proposal, that my clients would be prepared to accept a condition and/or other agreement which would limit the occupation of the proposed house to a Director or other employee of the company.

3.8 It is trusted that South Lanarkshire Council will recognise the need for support towards a successful South Lanarkshire rural business which has adapted to meet the needs of new and emerging economies. For the reasons outlined above it is respectfully suggested that the Review proposal should be approved.

NEIL GAINFORD MRTPI
23 July 2010

LIST OF SUPPORTING DOCUMENTS REFERRED TO IN STATEMENT OF REASONS

PRODUCTION 1:	Photograph: Kilnpothall spoil heaps as seen from Fordmouth Road
PRODUCTION 2:	Photograph: Review site as seen from the C37
PRODUCTION 3:	Photograph: Fly Tipping at Review Site
PRODUCTION 4:	Trailers parked at Review Site
PRODUCTION 5:	Fraser Dunlop Ltd promotional leaflet
PRODUCTION 6:	Photograph: Wind Turbine Blade negotiating junction in Enniskillen, N. Ireland.
PRODUCTION 7:	Photograph: Wind Turbine Blade being transported through Inverness.
PRODUCTION 8:	Photograph: Bandstand being installed for Glasgow City Council.
PRODUCTION 9:	Extract from Circular 6/1990
PRODUCTION 10:	Extracts From Scottish Planning Policy (February 2010)

Planning Review
Application CL/09/0483
Westsidewood, Carnwath
PRODUCTION 9 (Extract from Circular 6/1990)

Circular 6/1990

Description	Circular 6/1990 AWARDS AND EXPENSES IN APPEALS AND OTHER PLANNING PROCEEDINGS AND IN COMPULSORY PURCHASE ORDER INQUIRIES
ISBN	n/a (Web Only)
Official Print Publication Date	
Website Publication Date	March 22, 1990

Circular 6/1990

Circular 25/1966 is cancelled

The Chief Executive
Regional and Islands Councils

The Chief Executive
District Councils (except in Highland, Borders and Dumfries and Galloway Regions)

Our ref: PGG/1/5
22 March 1990

Dear Sir

AWARDS AND EXPENSES IN APPEALS AND OTHER PLANNING PROCEEDINGS AND IN COMPULSORY PURCHASE ORDER INQUIRIES

Introduction

1. This Circular provides advice on the manner in which the Secretary of State's power to order one party to certain proceedings to meet the expenses of another party is exercised. It applies to planning appeals and other planning proceedings under Parts III, IV, V, IX, X of the Town and Country Planning (Scotland) Act 1972 and also to inquiries into compulsory purchase orders. A copy is enclosed for your Director of Planning.

2. This Circular also explains the conditions which require to be met before an award of expenses will be made. It sets out examples of some of the situations in which an award of expenses may be made either against a planning authority or against an appellant or other party. It also covers the award of expenses in respect of compulsory purchase orders and analogous orders and gives guidance on partial awards and making an application for expenses.

Background

3. Section 267(7) of the Town and Country Planning (Scotland) Act 1972 (the 1972 Act) empowers the Secretary of State to make an order as to the expenses of the parties to an inquiry. Section 267A of the 1972 Act enables the Secretary of State to make an award of expenses in relation to proceedings which do not give rise to an inquiry, in particular in cases determined by written submissions. Paragraph 5 of Schedule 7 to the 1972 Act also enables Reporters to exercise the Secretary of State's power to award expenses in specified cases. These provisions were inserted into the 1972 Act by the Housing and Planning Act 1986 and come into force on 31 March 1990.

4. In planning proceedings the parties are normally expected to meet their own expenses and expenses are only awarded on grounds of unreasonable behaviour. Awards of expenses do not necessarily follow the decision on planning merits. An appellant is not awarded expenses simply because his appeal has succeeded, nor is the planning authority awarded expenses simply because the appeal is dismissed. In the case of compulsory purchase and analogous orders, however, where an inquiry has been held, the Secretary of State will normally make an award of expenses as a matter of course to a successful statutory objector against the authority which made the order. This represents no change in the Secretary of State's policy on the awarding of expenses in compulsory purchase order inquiries.

EXPENSES IN RESPECT OF APPEALS AND OTHER PLANNING PROCEEDINGS

5. Before an award of expenses is made, the following conditions will normally need to have been met:-

5.1 One of the parties has applied for an award at the appropriate stage of the proceedings. In the case of a public local inquiry this will normally be before the inquiry is concluded. In the case of written submissions procedure, the claim for expenses should normally accompany the party's final written submissions.

5.2 The party against whom the claim is made has acted unreasonably.

5.3 This unreasonable conduct has caused the party making the application to incur unnecessary expense, either because it should not have been necessary for the case to come before the Secretary of State for determination or because of the manner in which the party against whom the claim is made has conducted his part of the proceedings.

6. Listed below are examples of unreasonable behaviour which may give rise to an award of expenses. It should be emphasised that this list is illustrative, not exhaustive, and claims for expenses which fulfil the conditions outlined in paragraph 5 will be considered, even though they do not come within any of the examples listed. What is unreasonable remains a matter of judgement in the circumstances of each case and each application for expenses will be decided on its merits in the circumstances of each particular case.

Examples of Unreasonable Behaviour

7. Unreasonable behaviour on the part of the planning authority may include:-

- Failing to give complete, precise, and relevant reasons for refusal of an application. As stated in SDD Circular 17/1985, there is a presumption in favour of granting planning permission having regard to all material considerations, unless there are sound and clear cut reasons for refusal. The planning authority must be able to support its reasons for refusal and they will be expected to show that they have reasonable planning grounds for their decision.

A partial award may be appropriate in respect of one or more reasons which were not adequately supported by the planning authority in the course of the appeal proceedings (see paragraph 13).

- Reaching their decision, without reasonable planning grounds for doing so.
- Refusing an application for planning permission solely on the grounds that it does not accord with the provisions of the development plan and without having had regard to other material considerations. Proper consideration should also be given to the merits of the application, the age of the development plan and to relevant changes in circumstances since the development plan was approved or adopted.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning reasons. While the planning authority will need to consider the substance of any local opposition to a particular application, their duty is to decide a case on its planning merits.
- Refusing an application if an earlier appeal against the refusal of a similar application in respect of the site has been dismissed, where it is clear from the decision on that appeal that no objection would be seen to a revised application in the form submitted.
- Failing to take account of relevant statements of Government policy in Departmental Circulars or of relevant precedents of which the planning authority were aware.
- Imposing conditions on a grant of planning permission which clearly fail to meet the criteria set out in SDD Circular 18/1986 or which so limit an appellant's freedom to dispose of his property as to amount to an unreasonable restriction.
- Serving an enforcement notice without undertaking reasonable investigations to establish whether there has been a breach of planning control or without taking account of case law and of policy and advice set out in Departmental Circulars.

8. Examples of unreasonable behaviour on the part of the appellant may include:-

- Pursuing an appeal in circumstances where there is no reasonable likelihood of success. It may have been clear from a decision on a previous appeal in respect of the same site and the same or similar development that the development would not be permitted. If circumstances had not changed materially in the meantime and the appellant was aware of the decision, expenses may be awarded. Alternatively, it may have been obvious from Government statements of policy or judicial authority that the appeal had no reasonable prospect of being successful.
- Withdrawing the appeal without giving sufficient time for reasonable notice of the cancellation of the inquiry to be given to the parties.
- Deliberately unco-operative behaviour by any appellant, whether or not professionally represented. This may include refusing to explain the grounds of appeal or refusing to discuss the appeal.

9. Unreasonable behaviour on the part of either party may include:-

- Introducing a new matter (eg a new reason for refusal or new ground of appeal) at a late stage in the proceedings.
- Refusing to supply adequate grounds of appeal or to co-operate in settling agreed facts or supplying relevant information which unnecessarily prolongs the proceedings.
- Refusing to co-operate in setting a date for an inquiry or accompanied site inspection.
- Failing to comply with the requirements of any statutory procedural rules by, for example, not providing a pre-inquiry statement when required to do so, or failing to submit written

Planning Review
Application CL/09/0483
Westsidewood, Carnwath
PRODUCTION 10

Scottish Planning Policy

February 2010
© Crown copyright 2010
ISSN 1741 1203

INTRODUCTION

1. The Scottish Government's planning policies are set out in the National Planning Framework, this SPP, Designing Places, Designing Streets¹ and Circulars². This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and
 - the Scottish Government's expectations of the intended outcomes of the planning system.
2. This approach places planning in the wider context of Scottish Government aims and policies and clarifies the Government's expectations of the system and planning services. It is a brief statement of policy and does not attempt to provide a comprehensive summary or explanation of the planning system in Scotland or to describe the full and diverse range of objectives to which planning may contribute. This SPP does not restate policy and guidance expressed elsewhere. The wider policy framework including the National Planning Framework, Designing Places, Designing Streets and Circulars, should be taken into account in decision making. Policy linked to direct legislative requirements is expressed in terms of what must be done. Policy linked to Scottish Ministers' requirements for an efficient and effective planning system is expressed in terms of what should be done. The policies expressed in this SPP should inform the content of development plans, should be a consideration in decisions on planning applications and should be used to inform development proposals from initial concept to implementation.

THE PURPOSE OF PLANNING

3. Planning guides the future development and use of land. Planning is about where development should happen, where it should not and how it interacts with its surroundings. This involves promoting and facilitating development while protecting and enhancing the natural and built environment in which we live, work and spend our leisure time. Careful attention to layout, design and construction should result in places where people want to be.
4. The Scottish Government believes that a properly functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth. The way in which the planning system is structured and operated should be directed towards that purpose and to supporting the Scottish Government's five strategic objectives and fifteen national outcomes³.
5. The Government believes strongly in the value of forward-looking, visionary and ambitious plans that will guide development. These plans provide guidance to potential developers and investors; provide various interests with the opportunity to participate in shaping the future of their nation and their communities; and give public authorities a structure within which decisions can be made with confidence. Development plans should lead and guide change. The statutory requirement to keep development plans up to date⁴ will ensure that they reflect and respond to emerging pressures and issues.

¹ Due for publication in early 2010

² All documents are available at www.scotland.gov.uk/Topics/Built-Environment/planning

³ For more information about the Scottish Government's central purpose, strategic objectives and national outcomes see www.scotland.gov.uk/About/scotPerforms

⁴ Planning etc. (Scotland) Act 2006 Sections 10(8) and 16(1)

35. The Scottish Government supports the five guiding principles of sustainable development set out in the UK shared framework for sustainable development¹². The five principles are:
- living within environmental limits,
 - ensuring a strong, healthy and just society,
 - achieving a sustainable economy,
 - promoting good governance, and
 - using sound science responsibly.

Achieving a sustainable economy, promoting good governance and using established science responsibly are essential in enabling a strong, healthy and just society and living within environmental limits. The fundamental principle of sustainable development is that it integrates economic, social and environmental objectives. The aim is to achieve the right development in the right place. The planning system should promote development that supports the move towards a more economically, socially and environmentally sustainable society.

36. The Scottish Government's commitment to sustainable development is reflected in its purpose of creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. This is set out in the Government Economic Strategy, supported by the fifteen National Outcomes. Sustainable economic growth means building a dynamic and growing economy that will provide prosperity and opportunities for all, while respecting the limits of our environment in order to ensure that future generations can enjoy a better quality of life too.
37. The planning system has an important role in supporting the achievement of sustainable development through its influence on the location, layout and design of new development. Decision making in the planning system should:
- contribute to the reduction of greenhouse gas emissions in line with the commitment to reduce emissions by 42% by 2020 and 80% by 2050, contribute to reducing energy consumption and to the development of renewable energy generation opportunities,
 - support the achievement of Zero Waste objectives, including the provision of the required waste management installations,
 - protect and enhance the cultural heritage,
 - protect and enhance the natural environment, including biodiversity and the landscape,
 - maintain, enhance and promote access to open space and recreation opportunities,
 - take into account the implications of development for water, air and soil quality, and
 - support healthier living by improving the quality of the built environment, by increasing access to amenities, services and active travel opportunities, and by addressing environmental problems affecting communities.
38. Decisions on the location of new development should:
- promote regeneration and the re-use of previously developed land,
 - reduce the need to travel and prioritise sustainable travel and transport opportunities,
 - promote the development of mixed communities,
 - take account of the capacity of existing infrastructure,
 - promote rural development and regeneration, and
 - prevent further development which would be at risk from flooding or coastal erosion.

¹² *One Future – Different Path: The UK's Shared Framework for Sustainable Development (2005)*

65. A retail impact analysis should be undertaken where a retail and leisure development over 2,500 square metres gross floorspace outwith a defined town centre is proposed which is not in accordance with the development plan. An impact analysis may also be necessary for smaller retail and leisure proposals which may have a significant impact on vitality and viability. The impact analysis should consider the relationship of the proposed development with the network of centres identified in the development plan. In carrying out an analysis, a broad-based approach should be adopted. It should not be necessary to attempt detailed calculations or forecasts of a sector's growth as small variations in assumptions can lead to a wide range of forecasts. Authorities and developers should, where possible, agree data and present information on areas of dispute in a succinct and comparable form.

HOUSING

66. The Scottish Government is committed to increasing the supply of new homes and the planning system should contribute to raising the rate of new housebuilding by identifying a generous supply of land for the provision of a range of housing in the right places. The planning system should enable the development of well designed, energy efficient, good quality housing in sustainable locations and allocate a generous supply of land to meet identified housing requirements across all tenures.

Housing Requirements

67. Housing need and demand assessment provides the evidence base for defining housing supply targets in local housing strategies and allocating land for housing in development plans. The Scottish Government's Housing Need and Demand Assessment Guidance sets out the framework that local authorities should follow to develop a good understanding of how local housing markets operate and promotes an integrated approach to assessments by local authority housing and planning services. The assessment should be undertaken at a functional housing market area level and consider the operation of the housing system as a whole, covering all tenures. Where the housing need and demand assessment is considered robust and credible by the Scottish Government, the approach used will not normally be considered at a development plan examination¹³.
68. A housing market area is a geographical area where the demand for housing is relatively self-contained. Local authorities should define the housing market areas that will be used in determining housing requirements by following one of the approaches set out in the Housing Need and Demand Assessment guidance. Housing market areas may significantly overlap and will rarely coincide with local authority boundaries. Local authorities are therefore encouraged to co-operate regionally in housing market partnerships, which may also include other organisations such as housing associations and developers.
69. The Housing (Scotland) Act 2001 requires local authorities to prepare a local housing strategy supported by an assessment of housing need and demand. Local housing strategies consider the housing system as a whole and include a housing supply target covering all tenures based on the outcomes of the housing need and demand assessment. The local housing strategy provides the strategic direction for addressing housing need and demand and should inform future investment in housing across a local authority area. The preparation of local housing strategies and development plans should be closely aligned.

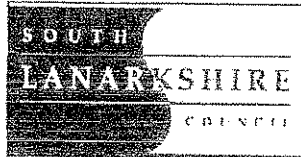
Housing Land

70. The delivery of housing through the development plan to support the creation of sustainable mixed communities depends on a generous supply of appropriate and effective sites being made available to meet need and demand, and on the timely release of allocated sites. The scale, nature and distribution of the housing requirement for an area identified in the local housing strategy and development plan should be based on the outcome of the housing need and demand assessment. Wider strategic economic, social and environmental policy objectives should also be taken into

¹³ This policy does not override the provisions of Part 4 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008

RURAL DEVELOPMENT

92. The planning system has a significant role in supporting sustainable economic growth in rural areas. By taking a positive approach to new development, planning authorities can help to create the right conditions for rural businesses and communities to flourish. The aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.
93. The character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurised areas of countryside around towns and cities. The strategy for rural development set out in the development plan should respond to the specific circumstances in an area whilst reflecting the overarching aim of supporting diversification and growth of the rural economy. Development plans should promote economic activity and diversification in all small towns and rural areas, including development linked to tourism and farm diversification, whilst ensuring that the distinctiveness of rural areas, the service function of small towns and the natural and cultural heritage are protected and enhanced. Developments which provide employment or community benefits should be encouraged, particularly where they involve the imaginative and sensitive re-use of previously used land and buildings. Planning authorities should also support and promote opportunities for environmental enhancement and regeneration in rural areas, particularly areas of previous mining and industrial activity.
94. The requirement for development plans to allocate a generous supply of land to meet housing requirements, including for affordable housing, applies equally to rural and urban areas. Development plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding. Opportunities to replace rundown housing and steadings, and to provide limited new housing along with converted rehabilitated buildings, should be supported where the new development is designed to fit in the landscape setting and will result a cohesive grouping. Modernisation and steading conversion should not be constrained within the original footprint or height limit unless there are compelling design or conservation reasons for doing so.
95. The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses. In more accessible and densely populated rural areas most new development should be in or adjacent to settlements. In less populated areas, small scale housing and other development which supports diversification and other opportunities for sustainable economic growth whilst respecting and protecting the natural and cultural heritage should be supported in a range of locations. In these areas, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards, particularly in relation to energy efficiency. Planning authorities should apply proportionate standards to access roads to enable small developments to remain viable.
96. It is essential that rural communities have reasonable access to good quality services. Major facilities are usually concentrated in larger settlements, and wherever possible they should be accessible by a range of transport modes including public transport. However, planning authorities should be realistic about the availability or likely availability of alternatives to access by car as not all locations, particularly in remoter areas, can be served by public transport.



Enterprise Resources

Non - householder planning application form

Town and Country Planning (Scotland) Act 1997
as amended by the Planning etc (Scotland) Act 2006

The Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2008

Please refer to notes of guidance prior to completing this form.

Part 1

Name and address of applicant(s).

Name	Mr & Mrs Fraser Dunlop		
Address	Dippoolview Westsidewood Carnwath		
Post code	ML11 8LJ	Daytime Phone	[REDACTED]
Email			

Part 2

Name and address of agent (if any).

Name			
Company			
Address			
Post code		Daytime Phone	
Email			

Part 3

Full address of application site.

Building name / plot / unit no / flat position	Westsidewood Farm
Address	Westsidewood Farm Carnwath South Lanarkshire
Post code	ML11 8LJ

(please outline site in RED on all your location/block plans, if you own or control any land adjoining the application site please outline area(s) in BLUE)

Part 4**Description of proposed development.**

Please provide an accurate and detailed description of the proposed development e.g. Erection of rear extension to building / change of use shop to office.

Erection of Dwellinghouse (In Outline)

Part 5

Is the application for? (please tick one box only)

Planning permission in principle.

Detailed planning permission (including change of use).

Approval of matters specified in conditions (please provide approval date and reference number of previous planning consent).

Ref no.

Date

Renewal of a previous temporary permission (please provide date on which original consent expired and previous planning reference number).

Ref no.

Date

Amendment to previous consent (please provide approved date and reference number of previous planning consent).

Ref no.

Date

Part 6

Is this proposal a revised version of an application which has been withdrawn or refused within the last 12 months?

Yes

No

Ref no.

Part 7

If you have previously discussed this application with a planning officer, please provide the name of the officer and date of discussion.

Name of officer

Robert Forrest

Date

Summer 2007

Part 8

Site area / floorspace.

(a) Gross area of application site (in hectares).

0.4645

ha.

(b) Gross floorspace of existing building (in square metres).

sq.m.

(c) Proposed additional floorspace (in square metres).

sq.m.

Part 9**Materials (finishes: include colour and type).**

→ see Note 1

Not applicable



Existing

Proposed

External walls

Roof

Windows

Boundary treatment

Part 10**Access and parking.**

(a) Are you proposing a new altered vehicle access to or from a public road?

Yes



No



If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

(b) Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes



No



If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

(c) How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

Parking for 3 commercial trailers

(d) How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total of existing and any new spaces or a reduced number of spaces)

Replace commercial trailer spaces with 4 spaces for private cars

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

Part 11**Design and access statement/ design statement/ pre-application consultation report .**

→ see Note 2

Do you require to submit any of the following?

Design and access statement?

Yes



No



Don't know



Design statement?

Yes



No



Don't know



Pre-application consultation report?

Yes



No



Don't know



If 'yes' to any of these, please ensure that it is submitted with your application.

Part 12**Water supply and drainage arrangements.**

(a) Will your proposals require new or altered water supply or drainage arrangements?

Yes No

(b) Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

- Yes, connecting to public drainage network
- No, proposing to make private drainage arrangements
- Not Applicable - only arrangement for water supply required

(c) What private arrangements are you proposing for the new/altered septic tank?

- Discharge to land via soakaway
- Discharge to watercourse(s) (including partial soakaway)

Please show more details on your plans and supporting information

(d) What private arrangements are you proposing?

- Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
- Other private drainage arrangement (such as chemical toilets or composting toilets)

Please show more details on your plans and supporting information

(e) Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements)

Yes No

Note:- Please include details of SUDS arrangements on your plans


(f) Are you proposing to connect to the public water supply network?

Yes No, using a private water supply

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Part 13


Does the application relate to a listed building?

 see Note 3

Yes No Don't know

Part 14


Does the application relate to a building within a conservation area?

 see Note 3

Yes No Don't know

Part 15

Will the proposed development affect any trees?

 see Note 4

Yes No

Part 16**Assessment of flood risk.**

Is the site within an area of known risk of flooding?

Yes No Don't know


If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact Planning and Building Standards Services or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere?

Yes No Don't know

If yes, briefly describe how the risk of flooding might be increased elsewhere and any proposals that you intend to carry out to mitigate these effects:

Part 17**Contamination and pollution.**


 see Note 5

Is the site known or suspected to be contaminated or polluted?

Yes No Don't know

(If yes please provide further details in an accompanying letter)

Part 18**Hazardous materials.**

 see Note 6

Do any of the proposals involve the use, storage, manufacture or disposal of hazardous materials?

Yes No (If yes please provide further details in an accompanying letter)

Part 19**Proposals relating to agriculture.**

Is the development required for the furtherance of agriculture, horticulture or forestry?

Yes No (If yes please provide further details in an accompanying letter)

Part 20**Waste storage and collection.**

Do the plans incorporate areas to store and aid the collection of waste?

Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made.

Waste storage and collection

Part 21

Planning service employee/Elected member interest.

Are you or is the applicant, or the applicant's spouse/partner, a member of staff within the planning service or an elected member of the planning authority?

Yes No

Or, are you/the applicant/the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes No

If you have answered yes please provide further details:

Part 22

Planning fee.

I enclose a fee of £

No fee is required

Part 23

Any other information the applicant / agent wishes to submit in support of their application.

See covering letter

Ownership certificate

Under Regulation 15 of the Town and Country Planning
(Development Management Procedure) (Scotland) Regulations 2008

If you do not own all the land relating to the application, then you must notify
all owners 21 days before submitting this application.

I certify that 21 days before the date of this application that:

A The applicant owned all the land relating to the application. (tick one box only)

OR

The applicant has notified every other person who was the owner of the land of the
submission of this planning application. Those notified as the owner/part owner of
the site are listed below.

The owners notified are:

Name of owner(s)	Address(es)	Date notified

I further certify that 21 days before the date of this application that:

(tick one box only)

B None of the land relating to the application relates to or formed part of an agricultural
holding.

OR

The land forms part of an agricultural holding and the applicant has notified every
person who was an agricultural tenant. Those notified as an agricultural tenant are listed
below.

Agricultural tenant(s) notified:

Name of tenant(s)	Address(es)	Date notified

C

I am unable to issue a certificate in accordance with either A or B above.

1. I have been unable to serve notice on all persons who, 21 days before the date of this application, were either an owner or agricultural tenant with an interest in the land. I have been able to notify the following:

Name of owner(s) / tenant(s)	Address(es)	Date notified

2. I have taken reasonable steps, as listed below, to identify the names and addresses of the other owners and agricultural tenants, but have been unable to do so:

N.B. If you cannot serve notice on all persons because you do not know who owns the application site, or part of it, or who is an agricultural tenant, then you should contact the appropriate area office to obtain the relevant notice that you will need to complete and publish in a local newspaper.

Part 25**Does the proposed development involve any of the following?**

(please tick the appropriate boxes)

Yes No

The construction of buildings for use as a public convenience;

The construction of buildings or other operations, or use of land -

- a. for the disposal of refuse or waste materials, or for the storage or recovery of re-useable metal;
- b. for the retention, treatment or disposal of sewage, trade-waste, or effluent other than -
 - (i) the construction of pumphouses in a line of sewers;
 - (ii) the construction of septic tanks and cesspools serving single dwelling-houses, or single caravans, or single buildings in which not more than 10 people will normally reside, work or congregate;
 - (iii) the laying of sewers; or
 - (iv) works ancillary to those described in sub-paragraph (i) to (iii);
- c. as a scrap yard or coal yard; or
- d. for the winning or working of minerals;

The construction of buildings or use of land for the purposes of slaughtering animals (including fish and poultry) or the processing of animal carcasses for final disposal or as part of the production of other goods;

- | Yes | No | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction or use of buildings for any of the following purposes - bingo hall; building for indoor games; cinema; dancing; fun fair; gymnasium (not forming part of a school, college or university); hot food shop; licensed premises; skating rink; swimming pool or theatre; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of buildings for or the use of buildings or land as -
a. a crematorium, or use of land as a cemetery;
b. a zoo, or wildlife park, or for the business of boarding or breeding animals; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of buildings and use of buildings or land for motor racing; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of a building to a height exceeding 20 metres; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of buildings, operations, and use of buildings or land which will -
a. affect residential property by reason of fumes, noise, vibration, smoke, artificial lighting or discharge of any solid or liquid substance;
b. alter the character of an area of established amenity;
c. bring crowds into a generally quiet area;
d. cause activity and noise between the hours of 8pm and 8am;
e. introduce significant change into a homogeneous area. |

If the answer is to any of the above is "yes", then the planning authority have to advertise the proposal in a local newspaper. The applicant is required to pay the cost of this advert. Please contact Planning and Building Standards Services to establish the cost involved.

Checklist

To allow us to register your application and avoid unnecessary delays, please ensure that you have submitted the following information -

Documentation

- Fully completed, signed and dated application form.
- Completion of ownership certificate confirming who owns the land and advising of any other owners who have been notified.
- Design and access statement (if it is a major development or a design statement if it is a local development within a specified area).
- Pre-application consultation report (if the application is a major development).

Fees

- Correct fee enclosed – checked against scale of fees.

Plans

- Non-householder applications – six full sets of plans

For more information or if you want this information in a different format or language, please phone 01698 455379 or e-mail enterprise.hq@southianarkshire.gov.uk

Each set of plans includes:-

- Location plan at scale of 1:2500 or 1:1250 (or 1: 10000 if in rural area). Site clearly outlined in red and any other land owned by the applicant outlined in blue.
- Site plan at a scale of 1:500.
- Scaled floor plan(s) (not required for applications in principle applications).
- Scaled elevation plan(s) (not required for applications in principle applications).
- If any plan is larger than A3 size, it would assist if you could also provide one set of correctly scaled A3 size copies of the plan. This assists with speeding up the consultation process.

Declaration

I hereby certify that the information given by me in this form is true and accurate to the best of my knowledge.

Signature of applicant/ agent* (Delete as appropriate)

Date

[Redacted Signature]

26 October 2009

Note: It should be understood that planning permission **does not** exempt you from the need to obtain any other permission which may be necessary under other legislation or regulations including The Building (Scotland) Acts, The Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Act 1997, or the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. If in doubt please contact the appropriate area office on 08457 406080.

Data Protection Act 1998

In terms of the Town and Country Planning (Scotland) Act 1997, the Council is required to maintain a public register of specified information relating to planning applications which are submitted. The Council is required to make that register available for public inspection. In addition, the Council is required to make some of that information available to Community Councils in the form of a published weekly list of planning applications received. This weekly list is also available for sale to private individuals and companies. Accordingly, by submitting this application you are consenting to the processing of the relevant data under the terms of the Data Protection Act 1998 and to the inclusion of the data in the public register and the publicly available weekly list. If you do not wish to be included in the weekly list for public sale, please tick here

Please note that when you submit a planning application, the information will appear on the planning register and the completed forms and any associated documentation will also be published on the Council's website. Personal telephone numbers, e-mail addresses and signatures will not be made public.



This publication has been printed on recycled paper.

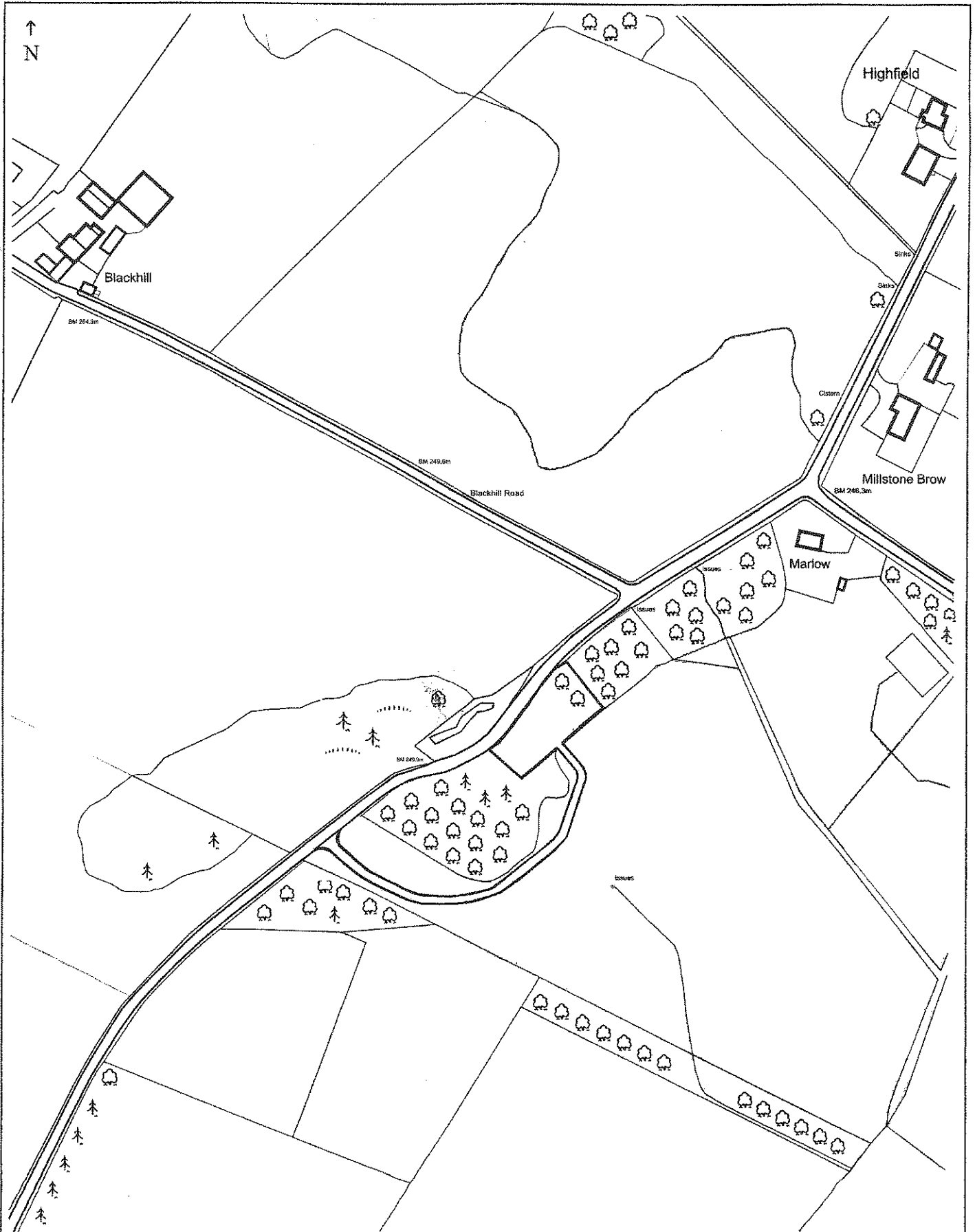
For official use only:

App. No.:

Date of Receipt:

Receipt No.:

Fee Paid:



Mr & Mrs Fraser Dunlop
Residential Development in Outline
at Westsidewood Farm, Carnwath, ML11 8LJ
LOCATION PLAN
Scale 1:2500

This map is based on Ordnance Survey
 Material with the permission of Ordnance Survey
 on behalf of the Controller of Her Majesty's
 Stationery Office. © Crown Copyright.
 Unauthorised reproduction infringes Crown Copyright
 and may lead to prosecution or civil proceedings.
 Licence No. 10044966



Application No

CL/09/0483

**Town and Country Planning (Scotland) Act 1997 as amended
by the Planning etc (Scotland) Act 2006**

To : **Mr & Mrs Fraser Dunlop** Per :
Dippoolview
Westsidewood
Carnwath
ML11 8LJ

With reference to your application dated 26 October 2009 for planning permission in principle under the above mentioned Act :

Description of Proposed Development :

Formation of 1 No. house plot (Planning Permission in Principle)

Site Location :

Westsidewood Farm
Carnwath
ML11 8LJ

South Lanarkshire Council in exercise of their powers under the above mentioned Act hereby:

REFUSE PLANNING PERMISSSION IN PRINCIPLE

for the above development in accordance with the accompanying plan(s) and particulars given in the application, subject to the condition(s) listed overleaf in the paper apart. The condition(s) are imposed by the Council for the reasons detailed.

Date: 29/04/10

Michael McGlynn, Head of Planning and Building Standards Services

This permission does not grant any consent for the development that may be required under other Legislation, e.g. Planning Permission, Building Warrant or Roads Construction Consent.

**South Lanarkshire Council
Enterprise Resources
Planning and Building Standards Services**

South Lanarkshire Council
Refuse planning permission in principle

Application Number: CL/09/0483

Reason(s) for Refusal:

- 1 This decision relates to plans: Site plan; and location plan.

- 2 The proposal is contrary to Policy STRAT5 of the adopted South Lanarkshire Local Plan as it does not consolidate an existing group of buildings or constitute a gap site, and would result in isolated development in the Rural Area to the detriment of the amenity and character of the rural environment.

- 3 The proposed dwellinghouse is contrary to Policy CRE 1 of the adopted South Lanarkshire Local Plan as it has not been shown that the proposal is essential for the furtherance of agriculture, forestry or other use appropriate to the Rural Area.

PRODUCTIONS 1 and 2

PRODUCTION 1



View of Kilnpothall spoil heaps as seen from Fordmouth Road

PRODUCTION 2



Review Site as seen from the C37

PRODUCTIONS 3 and 4

PRODUCTION 3



Fly Tipping at Review Site

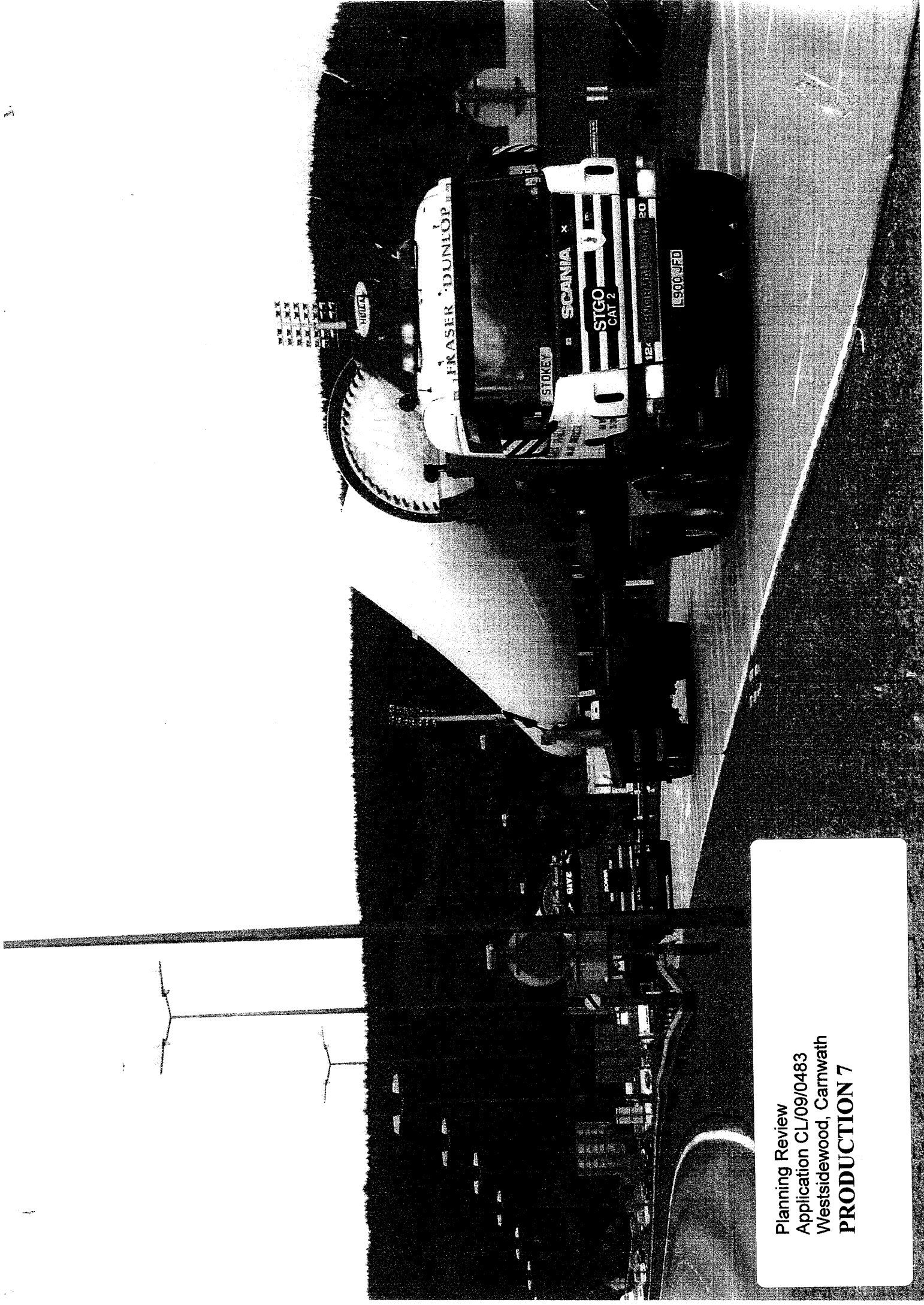
PRODUCTION 4



Trailers Parked at Review Site



Planning Review
Application CL/09/0483
Westsidewood, Carmarthenshire
PRODUCTION 6



Planning Review
Application CL/09/0483
Westsidewood, Carnwath
PRODUCTION 7

PRODUCTION 8



Bandstand moved for Glasgow City Council

Our range:

Wheeler rigid with a front mounted crane capable of lifting 5 ton with a platform and a payload of 11 ton *

Wheeler rigid with a 60tm crane fitted on the cab. Capable of lifting 8 ton 5 mtrs. with Integrated Stability Control on the stabilizers. *

Wheeler with lorry mounted cranes capable of lifting up to 10 ton. With a selection of trailers. *

Wheeler Artics with lorry mounted cranes (130 TM) capable of lifting up to 21 ton *

Wheeler Artic with lorry mounted crane and a detachable fly jib capable of lifting out to just over 27 metres : lifting approx two tonnes. *

Wheeler Normal Loads Escorting Vehicle *

Wheeler can also carry out contract lifts by request. *

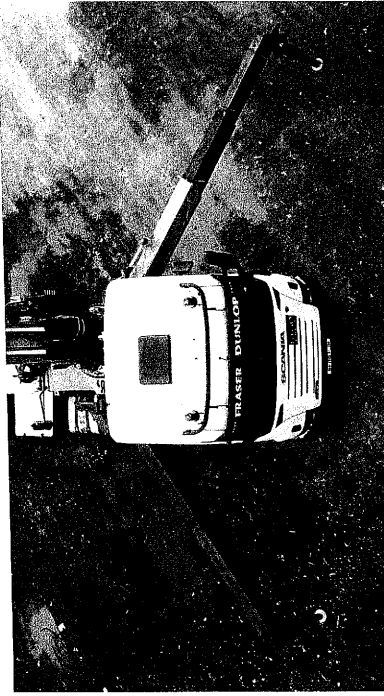
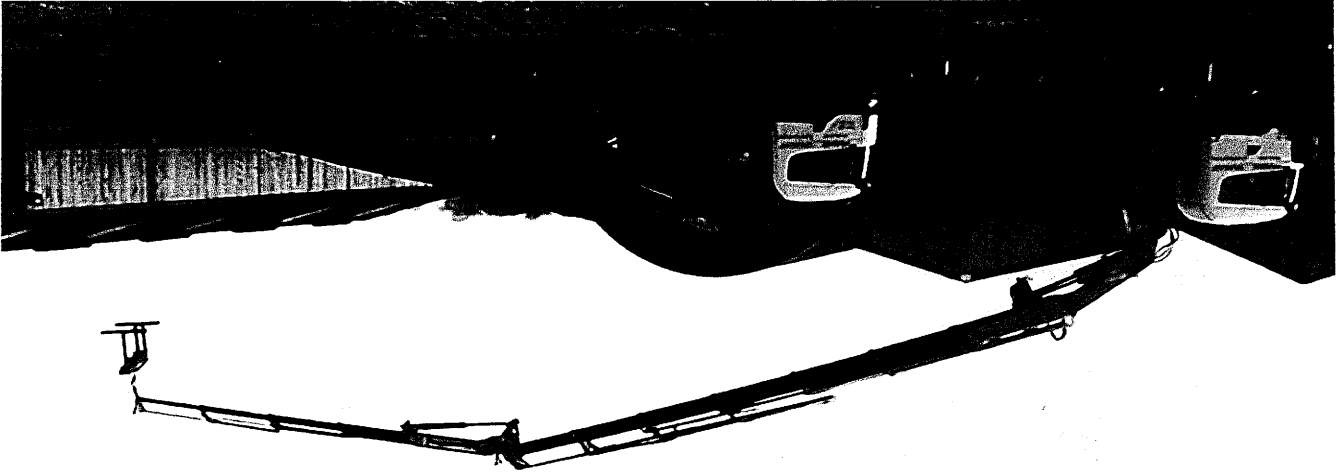
Wheeler as well as our new training centre which specializes in ALLMI Lorry Loader training and Slinger/Signaller training.

If the above lifting capacities are approximate dependant on the dimensions of the item being lifted.

FRASER DUNLOP LTD

For all of your lifting, transporting and training needs.

Planning Review
Application CL/09/0483
Westsidewood, Carnwath
PRODUCTION 5



WESTSIDEWOOD
CARNWATH
LANARKSHIRE
ML11 8LJ

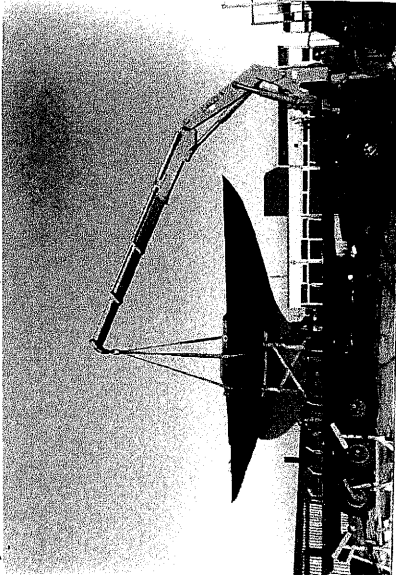
Tel 01501 785 252

Fax: 01501 785 259

Email: heather@fraserdunlop.co.uk

Fraser Dunlop Ltd formerly known as T. Dunlop & Son, started as a small family business in 1968 with a fleet of tipper Lorries.

We are proud to say that we now have our third generation working with us, keeping it very much still a family business.



Over the years we have moved away from tipper lorries completely and now run a fleet of varying sized lorries fitted with lorry mounted loaders. They range in size from a 23 ton rigid fitted with a crane capable of lifting up to approx 5 ton right up to a 4 axle artic fitted with a 130 ton metre crane, capable of lifting up to approx 20 ton.

And the latest addition is fitted with a fly jib and has a fully extended reach of just over 28 metres.

This one also has crosstab stabilizers which enable us to lift over the cab safely.



Over the years we have had a very wide array of tasks to complete for our customers ranging from moving boats and barges to antique trams and bandstands. As well as every day items, large 9 ton engines, 14 ton buckets, 60ft x 14ft cabins. We are also able to double stack 40ft containers end on.

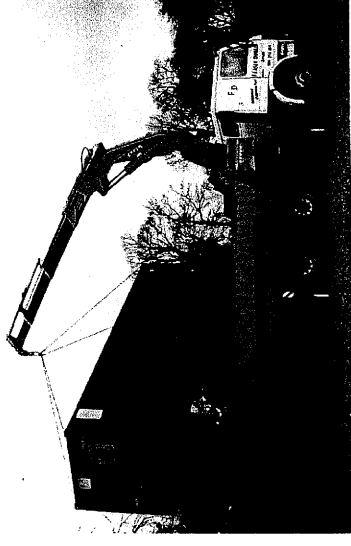
Our latest additions to the fleet run under special types category 2 allowing us to carry up to 50 tons. As well as being able to move loads wider than 4.3 metres.

We also have our own escorting van to enable us to self escort abnormal loads.

As well as the facilities to carry out contract lifts.

Along with the new crane, we have added to our fleet trailers that will extend to 60ft as well as step frame trailers, where the bed extends to 50ft.

As you can see, we are able to cover nearly all of your lifting needs from within our own fleet.



All of our driver/operators have either their CPCs or ALLMI cards with Lorry Mounted Loader category as well as slinger signaller. They also carry fall arrest equipment at all times. All of our cranes are tested and per LOLER regulations. As are our chains, slings, etc.

If you require any further information on any of our range, please contact our office.

Please also ask about our ALLMI lorry loader operator and slinger signaler training.

Corporate Resources
Executive Director **Robert McIlwain**
Administration Services

Mr Neil Gainford
8 Woodlands Drive
Lanark
ML11 9FS

Our ref: PLRB/NOR/CL/10/005
Your ref:
If calling ask for: Pauline MacRae/Karen Bartie
Phone: 01698 454108/4519
Date: 5 August 2010

Dear Mr Gainford

Notice of Review – Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
Planning Application No: CL/09/0483
Proposal: Formation of 1 No. house plot (planning permission in principle)
Location: Westsidewood Farm, Carnwath, ML11 8LJ
Applicant: Mr and Mrs Fraser Dunlop

Thank you for the Notice of Review, received on 27 July 2010, which you have submitted in respect of the decision taken to refuse planning permission in principle for the above application.

The Planning etc (Scotland) Act 2006 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 prescribe the way in which you can ask the Planning Authority to review a case and prescribe the content of the review application.

Section 43B of The Planning etc (Scotland) Act 2006 sets out all of the matters which can be raised in a review. The Planning Authority has no discretion to waive or vary this. In respect of new information, Section 43B states that a party is not to raise any matter which was not before the planning officer who made the determination unless that party can demonstrate that (a) the matter could not have been raised before the review or (b) the matter was not raised before due to exceptional circumstances.

In the Notice of Review, you have included information which was not before the planning officer who made the determination. This new information comprises:-

- ◆ the general site conditions at the application site
- ◆ the scale and significance of the applicant's business operations
- ◆ the reason for the submission of the application

You have explained that this information was not lodged with the planning application as the applicants considered that it would either be self-evident to the planning officer or would be established through dialogue. This explanation does not address the requirements of the legislation, and so, in order to comply with the legislation and to raise this new information in your review, you will need to demonstrate why the information could not have been raised before or, if it could have been raised before, what the exceptional circumstances were which prevented it from being raised.

Floor 2, Council Offices, Almada Street, Hamilton ML3 0AA Phone: 01698 454108 Fax: 01698 454407
Text Phone: 01698 454039 Email: Pauline.macrae@southlanarkshire.gsx.gov.uk



The onus is on you to demonstrate either why the new information could not have been raised before you submitted your review application or why there were exceptional circumstances preventing you from doing so. If you cannot demonstrate these reasons, you will not be able to include this new information in your review and only the information which was before the planning officer who made the determination will be placed before the Local Review Body.

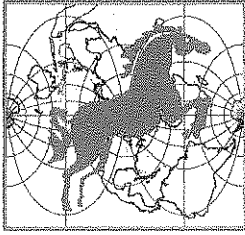
I should be pleased to hear from you **by 19 August 2010**.

If you wish to discuss any aspect on the operation of the review process, please do not hesitate to contact Pauline MacRae at telephone number 01698 454108.

I hope you find this information helpful.

Yours sincerely

Lynn Paterson
Administration Officer



Gainford Limited
Planning Consultants
8 Woodlands Drive
Lanark
Lanarkshire, ML11 9FS

13 August 2010

South Lanarkshire Council
Executive Director
Corporate Resources
Almada Street
Hamilton
ML3 0AA

17 AUG 2010

Your Ref: PLRB/NOR/CL/10/005

Dear Sir

**Notice of Review
Westsidewood Farm, Carnwath, ML11 8LJ
Mr and Mrs Fraser Dunlop**

Thank you for your letter of 5 August 2010. I note and appreciate what you say and I would respond as follows.

The information to which you refer in your letter namely the applicant's circumstances and the general site conditions at the review site are both 'material considerations' and therefore it is open to the Planning Local Review Body by reason of Section 43B(2) to take this information into account.

The Planning Officer on his/her inspection of the application site would have been aware of the site conditions and therefore I would submit that this information is not new information. Similarly it is an established principle that an applicant's circumstances can be material to the determination of a planning application. These principles are frequently applied by South Lanarkshire Council. I attach for your information a copy of a Committee Report for Planning Application Ref: CL/08/0385 in which it can be noted that the Council's normal standards as reflected in development plan policy were outweighed by material considerations related to the applicant's circumstances. Please note that I have forwarded this report simply to clarify this point regarding 'material considerations'. The report is not to be considered a further submission in relation to the planning issues under consideration in the Review.

In reaching a decision on a planning application Section 25 of the Planning Act requires that the decision maker (in this case the Planning Local Review Body) must reach a decision having regard to the Development Plan and to other material considerations. This is a fundamental requirement of the Act.


I understand that Section 43B(2) of the Act was introduced specifically with regard to Section 25 in order that Reviews under Section 43A(8) could be fully informed by information relative to the development plan (Section 43A(2)(a)) and by information relative to "any other material consideration" (Section 43A(2)(b)). You will appreciate that any decision taken in the absence of proper consideration of the development plan or of any relevant material consideration would be open to challenge as being unsafe and could be set aside.

I would therefore suggest that it is not only open to the Review Body to consider the full scope of matters contained in the Notice of Review, but rather the Review Body is required by reason of Section 43A(2)(b) to take account of these matters. For these reasons, I would invite the Planning Local Review Body to reconsider their position.

Yours sincerely

Neil Gainford MRTPI

Enc.

	Report	Agenda Item 5
---	---------------	-------------------------

Report to:	Planning Committee
Date of Meeting:	7 October 2008
Report by:	Executive Director (Enterprise Resources)

Application No	CL/08/0385
Planning Proposal:	Erection of a 1½ Storey Dwellinghouse

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Mr & Mrs R Frew
- Location : 4 Mousebank Lane
Lanark
ML11 7PP

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant Detailed Planning Consent (Subject to Conditions – Based on Conditions Attached)

2.2 Other Actions/Notes

- (1) The application is contrary to the Development Plan and objections have been received. In accordance with the Council's procedures, a hearing may be required prior to determining the application.
- (2) The Planning Committee has delegated powers to determine this application.

3 Other Information

- ◆ Applicant's Agent: Alex Cullen & Co.
- ◆ Council Area/Ward: 02 Clydesdale North
- ◆ Policy Reference(s): **Lower Clydesdale Local Plan (Adopted)**
 - Policy RES1: Residential Areas
 - Policy SLP6: Development Control General
 - Policy DC1: Development Advice General

Finalised South Lanarkshire Local Plan (As Modified)

- Policy RES6: Residential Land Use
- Policy ENV30: New Housing Development
- Policy DM5: Sub-Division of Garden Ground
- Policy DM1: Development Management

Planning Committee
7 October 2008

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

Roads and Transportation Services (South Division)

1 Application Site

- 1.1 The application relates to the garden ground of an existing single storey house of modern design at 4 Mousebank Lane in Lanark. The garden is to the side of the existing property and has a direct road frontage. There are various house types within the streetscape in terms of design, storey height, and materials. The land directly to the east is occupied by industrial use while the site is separated from a property to the south on Park Place by a high stone boundary wall. Mousebank Lane itself is a private road and only 3m in width along most of its length.
- 1.2 The applicant has submitted extracts of title deeds to demonstrate full ownership of land belonging to 4 Mousebank Lane. This includes the area of land behind the property to the east, and a small area of land at the vehicular access of 4 Mousebank Lane.

2 Proposal(s)

- 2.1 The applicant seeks detailed planning consent for the erection of a 1½ storey dwellinghouse within the garden ground of 4 Mousebank Lane, Lanark. The dwellinghouse would be accessed via Mousebank Lane which is a private road.
- 2.2 The proposed dwellinghouse would contain 3 bedrooms, one of which would be located on the ground floor. The 1½ storey house proposes 2 dormer windows on the front elevation and would have the appearance of a bungalow from the rear as only one velux window is proposed on the rear roof. The overall height of the house would be 7.5 metres. The rear garden depth proposed is approximately 3.0 metre with an overall area of 113m². The plot would have a front garden depth of 8.5 metres. The ratio of house to garden ground is 31:69 (excluding car parking provision and turning area).
- 2.3 The applicant has submitted justification confirming the medical circumstances of the applicant Mrs Frew which also state that she is wheelchair bound. A detailed financial report has been submitted which shows that the costs and implications of altering the applicants existing house to enable suitable disabled access throughout the house is not financially or practically feasible. In addition, a statement has been submitted by her occupational therapist. She advises that while some adaptations on the existing house have taken place, further changes to take account of her deteriorating condition cannot be carried out. A purpose built house would improve her safety and promote her independence.

3 Background

3.1 Local Plan Status

- 3.1.1 The application site is located within a residential area where policies RES1 and RES6 of the adopted Lower Clydesdale Local Plan and finalised South Lanarkshire Local Plan (as modified) apply. These policies aim to protect residential amenity and resist development which would have an adverse impact on the amenity of such areas.
- 3.1.2 Policies SLP6 and DM5 of the adopted and finalised local plans respectively relate to the sub-division of garden ground. These policies state specific criteria that must be

Planning Committee

7 October 2008

met to ensure that a dwellinghouse of suitable standards can be accommodated without adversely affecting the donor plot and character of the surrounding area.

- 3.1.3 The aims of policies DC1, DM1 and ENV30 of the adopted and finalised local plans respectively are to ensure that development respects the local context in terms of siting, design and materials and is of high quality design.

3.2 Relevant Government Advice/Policy

- 3.2.1 None.

3.3 Planning History

- 3.3.1 Planning application P/LK/01870443 for the erection of a dwelling at this site was refused and the subsequent appeal was dismissed on 27 June 1988. A further application P/LK/01890198 was refused on 7 June 1989. The main reasons for refusal were road safety due to increased traffic along a substandard road, and that the size and shape of the plot and donor plot would be of insufficient standards and would create a loss of amenity to the streetscape with the removal of the garden. It should be noted that the Roads Area Engineer recommended refusal of the proposal due to road safety concerns.

- 3.3.2 A detailed planning application (CL/07/0722) for the erection of a dwelling on this site on the site was refused 25 February 2008 as the proposal was contrary to policies RES1, SLP6 and DC1 of the adopted Lower Clydesdale Local Plan and policies RES6, DM5 and DM1 of the finalised South Lanarkshire Local Plan (as modified), and would have an adverse impact on the visual and residential amenity of the surrounding area. In addition, the proposal would constitute over development of the site.

4 Consultation(s)

- 4.1 Roads & Transportation Services – do not object to this proposal. The application site would take access via Mousebank Lane which is a private road.
Response: Noted.

5 Representation(s)

- 5.1 Following the carrying out of statutory neighbour notification, and the advertisement of the application in the Lanark Gazette as development potentially contrary to the development plan, 7 letters (excluding one letter of duplication) of objection were received. The grounds of objection are summarised below:

- (a) **Mousebank Lane is a narrow private road, and an additional dwellinghouse would add to traffic congestion, create road safety issues, would restrict access from emergency vehicles and cause increased maintenance costs to maintain the road, especially due to use by construction vehicles. The road is also already congested from the use of the cadet hall and the existing business adjoining the site.**

Response: Roads and Transportation Services have no objections to the proposal, and in specific the creation of an access to serve the proposed house directly from Mousebank Lane. If consent is granted conditions would be attached to ensure that sufficient car parking spaces and a turning area within the site was provided to prevent cars parking or reversing onto

Mousebank Lane. I also consider the formation of one additional plot would not lead to a significant increase in traffic levels.

- (b) **The existing house at 4 Mousebank Lane was granted planning consent on condition that it was accessed from Park Place; this does not happen.**

Response: This is a separate matter and will be investigated independently.

- (c) **The development could affect the light and privacy of adjacent dwellings.**

Response: Disagree. The development would comply with the Council's Residential Development Guide in terms of a 20 metre window to window distance with dwellings adjacent the site, and therefore would create no significant over looking or over shadowing issues.

- (d) **The development would significantly reduce the garden ground available to the existing house, and would constitute over development of the site.**

Response: Agree. The erection of a house at this site would not comply with the Council's Residential Development Guide, in terms of the rear garden area of the proposed house and would reduce the size of the donor plot to standards which would not meet the Council's Residential Development Guide. In particular, the development would leave the donor plot with an insufficient useable garden area; the remaining area forming a narrow band around the house, of limited value in terms of residential amenity.

- (e) **There is planning permission already granted for a dwelling adjacent the site.**

Response: The consent granted for a dwelling adjacent the site was assessed on its own merits and is independent from this application.

- (f) **Water pressure to the existing houses in the lane is low, and an additional house would exacerbate this issue.**

Response: The site is served by a public water supply, and any issues with regards to water supply should be raised with Scottish Water.

- (g) **The proposed house would have an adverse impact on residential amenity due to its relationship within the streetscape.**

Response: Mousebank Lane is characterised by a range of house styles and size while most of them fail to meet current guidelines on garden size. As a result I am satisfied the proposal is in keeping with the character of the area.

- (h) **The applicants' house is single storey in height, and given the applicants circumstances there is question as to why a 1½ storey house is proposed.**

Response: The proposed house would have living accommodation for Mrs Frew on the ground floor, with wider corridors and doors to enable movement through out the main living space of the house. The first floor accommodation would provide bedrooms for the remainder of the family.

- (i) **The proposal is contrary to policies RES1 and RES6 of the adopted and finalised local plans.**

Planning Committee

7 October 2008

accommodate internal disabled access. I am satisfied that the circumstances justify a departure. In addition, I am satisfied that, despite failing to accord fully with guidelines on new housing, the applicants have addressed most of the issues that led to the refusal of the first application and that the proposal will not have a significant adverse impact on the amenity of the area.

6.6 I therefore recommend that planning consent be granted. A departure from the development plan can be justified on the following grounds.

1. The applicant has presented overwhelming evidence of socio-medical grounds for the occupants of the new dwellinghouse.
2. There are no infrastructure implications.
3. There will not be adverse impact on the amenity and character of the area.

7 Reasons for Decision

7.1 For the reasons stated in paragraph 6.5 above.

Iain Urquhart
Executive Director (Enterprise Resources)

26 September 2008

Previous References

- ◆ CL/07/0722

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 - Roads and Transportation Services (South Division) 25/07/2008
- ▶ Representations
 - Representation from : Gerald Cowan, 3 Mousebank Lane, Lanark, ML11 7PP, DATED 14/07/2008
 - Representation from : Mr I Semple & Miss E Bone, 2 Mousebank Lane, Lanark, ML11 7PP, DATED 14/07/2008
 - Representation from : Neil Gainford MRTPI, 15 Silverdale Crescent, Lanark, ML11 9HW, DATED 07/08/2008
 - Representation from : Mr Ian Semple & Miss E Bone, 2 Mousebank Lane, Lanark, ML11 7PP, DATED 13/08/2008
 - Representation from : Alison and Andrew Graham, 1 Mousebank Lane, Lanark, ML11 7PP, DATED 13/08/2008

Corporate Resources
Executive Director **Robert McIlwain**
Administration Services

Mr Neil Gainford
8 Woodlands Drive
Lanark
ML11 9FS

Our ref: PLRB/NOR/CL/10/005
Your ref:
If calling ask for: Pauline Macrae
Phone: 01698 454108
Date: 26 August 2010

Dear Mr Gainford

Notice of Review – Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
Planning Application No: CL/09/0483
Proposal: Formation of 1 No. house plot (planning permission in principle)
Location: Westsidewood Farm, Carnwath, ML11 8LJ
Applicant: Mr and Mrs Fraser Dunlop

Thank you for your letter dated 13 August 2010 regarding the new information submitted in respect of the above Notice of Review.

While I note the points which you make in your letter, the issue remains that the PLRB requires to make a decision on whether it can accept the new matters raised. To do so, the PLRB requires the applicants, or you as their agent, to demonstrate why these matters could not have been raised at the time when the application was determined by the appointed officer and/or the exceptional circumstances which existed to prevent the matters being raised before now.

This information is not clear in your letter and I would be grateful if you could now clarify the position with regard to these specific points to allow me to progress the review.

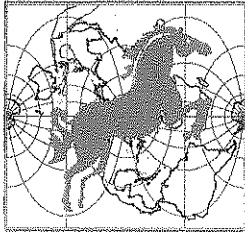
I look forward to hearing from you in early course.

Yours sincerely

Pauline MacRae
Administration Officer

Floor 2, Council Offices, Almada Street, Hamilton ML3 0AA Phone: 01698 454108 Fax: 01698 454407
Text Phone: 01698 454039 Email: pauline.macrae@southlanarkshire.gsx.gov.uk





Gainford Limited
Planning Consultants
8 Woodlands Drive
Lanark
Lanarkshire, ML11 9FS

28 August 2010

Pauline MacRae
Administration Services
Corporate Resources
South Lanarkshire Council
Council Offices
Almada Street
Hamilton
ML3 0AA

Your Ref: PLRB/NOR/CL/10/005

Dear Pauline

Notice of Review
Planning Application CL/09/0483
Westsidewood Farm, Carnwath

Thank you for your letter of 26 August 2010 and for the time taken on Friday 26 August to discuss your position in this matter. I appreciate the difficulty of your position and recognise that you are required to seek a response which explains the circumstances why the matters presented in support of the Notice of Review could not have been raised "*at the time when the application was determined by the appointed officer*".

In my view these matters ought to have been raised at the time when the application was determined by the appointed officer, but as these 'new matters' in my view are all material considerations I do not believe that the applicant is wholly culpable for their omission. I believe that important legal issues centre on this point and particularly on the extent to which both the applicant and the appointed officer share responsibility to ensure that the decision making process is fully informed by all relevant material planning considerations. It is evident that both parties may have been at fault in this case. However, I appreciate that this issue may have to be resolved elsewhere and that your immediate interest is in presenting this matter to the Planning Local Review Body. I hope that my following comments will assist in allowing you to bring this case before the Local Review Body.

In response to your question I would respectfully submit that exceptional circumstances have prevented these matters being raised before now. The exceptional circumstances are that the applicant could not reasonably have expected the Report of Handling to have omitted, or excluded for whatever reason, material planning considerations which were relevant to the determination of the planning application.

SOUTH LANARKSHIRE COUNCIL CORPORATE RESOURCES ADMINISTRATION	
31 AUG 2010	
FILE REF	
FOR ATTENTION OF	
BY DESIGNED BY	

I would accept that the material considerations which relate to the applicant's circumstances were not before the appointed officer at the time when the application was determined. In this regard, the applicants may shoulder the greatest responsibility. However, in their defence, the applicants were not in a position to know, and were not made aware of the date when the application was going to be determined.

With regard to all other material considerations raised with the Notice of Review viz. the site conditions and to statements of Government Planning Policy including Scottish Planning Policy, I would submit that the responsibility to identify these matters rested wholly with the appointed officer.

The only reference in the Delegated Report to material planning considerations was a reference in Paragraph 1.3 to the planning history of the site and to a planning application which was determined in 2007. The report contains no reference to Scottish Planning Policy approved since 2007 and to Scottish Planning Policy introduced subsequent to the adoption of the South Lanarkshire Local Plan. The authority of the Delegated Report is further undermined by the failure to recognise in paragraph 4.3 changes in material considerations introduced by recent statements of Scottish Government policy

A decision by the Planning Local Review Body informed only by the content of the Delegated Report would be unsound by reason of Section 25 of the Planning Act and by paragraph 2(3) (c) and in particular paragraph 4 (f) of Schedule 2 of the Town and Country Planning (Development Management) Procedure (Scotland) Regulations 2008.

The primary responsibility to identify relevant material planning considerations rests with the appointed officer, not with the applicant. Any view to the contrary would suggest that each planning application ought to be frontloaded with every conceivable consideration which might be relevant to the proposal. Clearly this would be a nonsense and could not have been the intention of the authors of the 2006 Planning Act.

In summary, the information submitted with the Notice of Review is justified in order to make good deficiencies in the Delegated Report, and for this reason ought to be taken into account. In my view, the Planning Local Review Body cannot safely take a decision in the knowledge that relevant material considerations exist, but have not been assessed as part of the decision making process.

I hope that this response is helpful in taking the matter forward.

Yours sincerely

Neil Gainford MRTPI