

Report

Report to:	Planning Committee
Date of Meeting:	29 March 2022
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/21/0061
Planning proposal:	Siting of caravan for use as welfare unit (non-residential) and the erection of a boundary fence (retrospective)

1 Summary application information

- ◆ Application type: Detailed planning application
- ◆ Applicant: Forestfield
- ◆ Location: Land 140M South of 1 Heather Road
Heather Road
Nemphlar
Lanark
South Lanarkshire

2 Recommendation(s)

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

- (1) Grant detailed planning permission (subject to conditions) based on conditions attached.

2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application.

3 Other information

- ◆ Applicant's Agent:
- ◆ Council Area/Ward: 02 Clydesdale North
- ◆ Policy Reference(s): SLLDP2: Policy 1 Spatial Strategy
SLLDP2: Policy 2 Climate Change
SLLDP2: Policy 4 Green Belt and Rural Area
SLLDP2: Policy 5 Development Management and Placemaking
SLLDP2: Policy 14 Natural and Historic Environment
SLLDP2: Policy DM1 New Development Design

◆ **Representation(s):**

▶	10	Objection Letters
▶	0	Support Letters
▶	2	Comment Letters

◆ **Consultation(s):**

Roads Development Management Team

Environmental Services

Planning Application Report

1. Application Site

- 1.1 The application site is located on Heather Road in Nemphlar and extends to 0.23ha in area. It comprises of mostly open field with a tree line to the south. There are a number of ancillary sheds and buildings within the field. The site slopes downwards slightly from its northern boundary to the south. The application site is bounded to the east and west by further agricultural land and to the north and south by residential properties. Nemphlar Road runs along the northern boundary of the site, Hall Road along the eastern boundary and Heather Road to the south.

2. Proposal(s)

- 2.1 The applicant seeks retrospective detailed planning consent for the siting of a caravan for use as a welfare unit (non-residential) and the erection of a boundary fence adjacent to Heather Road. The caravan is being used to provide welfare facilities for an agricultural worker on the land within the application site. It is sited adjacent to the ancillary buildings within the field. The applicant has also widened an existing field access from Heather Road and installed a new fence following removal of a hedgerow.

3. Background

3.1 Local Plan Status

- 3.1.1 The application site does not fall within the settlement boundary of Nemphlar as defined within the approved South Lanarkshire Local Development Plan 2 (SLLDP2) but rather is located within land designated as rural within the SLLDP2. The proposed development therefore requires to be assessed against the following policies:-

- ◆ SLLDP2: Policy 1 Spatial Strategy
- ◆ SLLDP2: Policy 2 Climate Change
- ◆ SLLDP2: Policy 4 Green Belt and Rural Area
- ◆ SLLDP2: Policy 5 Development Management and Placemaking
- ◆ SLLDP2: Policy 14 Natural and Historic Environment
- ◆ SLLDP2: Policy DM1 New Development Design

3.2 Relevant Government Advice/Policy

- 3.2.1 Scottish Planning Policy advises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. SPP states that the planning system should be plan-led, with plans being up to-date and relevant. In this instance the South Lanarkshire Local Development Plan 2 was adopted in April 2021 and as such is fully up to date.

3.3 Planning Background

- 3.3.1 The applicant has stated that they were unaware the proposals required an application for planning permission. Once drawn to their attention, the applicant has submitted this retrospective planning application.

4. Consultation(s)

- 4.1 **Roads (Development Management Team)** - The use of the caravan has been identified as a welfare unit for an agricultural worker. This has no adverse impact on the public road network and, as such, this Service would offer no objections to this application. Noted that the field access already existed and therefore the widening of the field access and installation of the fence does not have any additional implications to the road network.

Response: Noted.

4.2 **Environmental Services** – no comments to make.

Response: Noted.

5. Representation(s)

5.1 Statutory neighbour notification and advertisement in the local newspaper was undertaken. A total of 12 representations have been received comprising 10 letters of objection and 2 comments letters.

5.2 The grounds of objection can be summarised as follows:-

a) This caravan has been used as a dwelling.

Response: Enforcement officers have attended the site on several occasions and have not evidenced signs of the structure being used as accommodation. The planning application states that it is solely for providing welfare facilities to agricultural workers and is therefore assessed on this basis. A condition stating that the caravan cannot be used as residential accommodation forms part of the recommendation of approval.

b) There is currently a legal constraint that forbids the applicant from accessing Heather Road

Response: This relates to a private legal matter that is outwith the remit of the Council, as Planning Authority.

c) The caravan brings down the aesthetics of the village.

Response: The design and siting of the caravan is assessed in section 6 below.

d) Road access and on-site parking is not adequate for the site

Response: Roads and Transportation Services (Development Management Team) have no objection to the proposal.

e) The applicant's timeline of events is inaccurate and misleading

Response: This is not a material consideration of a planning application. The planning application and subsequent assessment is based solely on the proposals within the application.

f) Has environmental health reviewed the site and water disposal.

Response: Environment Health were consulted on the application and had no comments to make

g) Are Scottish Water and SEPA aware of the water connection and sewerage disposal being used

Response: In this instance, this would be a private civil matter between the applicant and Scottish Water and/ or SEPA.

h) There are bats present within the trees surrounding the proposals

Response: The proposals do not involve the removal of trees or buildings that may have potential for bat roosts. The welfare unit itself is not a form of building that bats would use.

i) Hedgerow removal during bird nesting season

Response: The hedges were removed prior to the Council's involvement. Any concerns regarding damage to nesting birds are a matter for the Police and would have been required to be reported at the time of the works.

j) **Increased badger activity due to the caravans location adjacent to badger setts**

Response: Badgers and their setts are protected under the Protection of Badgers Act 1992 as amended by the Wildlife and Natural Environment (Scotland) Act 2011. Any activities that could affect badgers or their setts without the appropriate licences being in place are therefore a criminal offence and if evidenced should be reported to Police Scotland and NatureScot to take forward.

k) **Can the caravan be moved around the site**

Response: The planning assessment is based on the caravan in its current position as applied for and it is therefore considered appropriate to condition this location as being fixed and to not allow the caravan to be sited anywhere else within the site. A condition of this nature forms part of the recommendation of approval.

l) **Burning of materials on site**

Response: Whilst burning materials is normally within the remit of Environmental Services and/ or SEPA it is considered that the location of the site adjacent to the settlement of Nemphar results in it being an unsuitable location for the burning of materials and therefore a condition stating that no materials can be burned on site is considered appropriate and forms part of the recommendation.

m) **There was a reported incident regarding the applicant hitting a pedestrian with his vehicle near to this entrance which has been reported to police which is still ongoing.**

Response: This is not a planning matter.

n) **I would also ask that you take into account that the narrow roads around Nemphar are used quite heavily by pedestrians, dog walkers and cyclists. There is a public park for children and a Community Hall all within the vicinity of this junction area.**

Response: Roads and Transportation Services have no objection to the application. The proposal will not generate additional traffic to an extent it would result in road safety issues.

5.3 These letters are available for inspection on the planning portal.

6 **Assessment and Conclusions**

6.1 Section 33 of the Town and Country Planning (Scotland) Act 1997 (as amended) allows a Planning Authority, should they be minded, to grant planning permission to a development including development that has already been carried out (i.e. in retrospect). Therefore, the retrospective nature of this application does not prohibit the Council, as Planning Authority, to carry out a detailed assessment of the planning application as required under Section 25 of the Town and Country Planning Act 1997. Due to the retrospective nature of the application, if it is unsuccessful, the Council may be required to seek enforcement action to remedy the situation.

6.2 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the approved Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP), and the adopted South Lanarkshire Local Development Plan 2021 (SLLDP 2). The GCVSDP is a high level, strategic document and it is considered that

proposals of this scale would not have any strategic implications within the Strategic Development Plan Area. As such there is no detailed assessment of the proposals against this strategic Plan.

- 6.3 SLLDP2 Policy 1: Spatial Strategy sets out the spatial strategy for the plan period. In this instance, the application site is on land designated as Rural within the SLLDP2 and therefore Policy 4: Green Belt and Rural Area is of relevance. SLLDP2 Policy 4 'Green Belt and Rural Area' states that support will not be given for development proposals within the Rural Area, unless they relate to uses which require a countryside location. In this instance, the proposals relate to existing agricultural land and, therefore, it is considered that the siting of the caravan in this specific, rural location can be justified subject to further assessment against development management criteria as below.
- 6.4 Policy 2: Climate Change seeks to minimize and mitigate against the effects of climate change. The proposal avoids areas of medium to high flood risk, has no foundations and therefore no significant adverse impacts on the water and soils environment, air quality, biodiversity, and/or green networks. Therefore, taking into account the scale of the proposed development, it is considered the proposal meets the terms of Policy 2 of the adopted SLLDP2.
- 6.5 Policy 5: Development Management and Placemaking states that development proposals should take account of and be integrated within the local context and built form. New development should also have no significant adverse impacts on the local community. This advice is supported within SLLDP2 Policy DM1 New Development Design. Whilst the aesthetic of the caravan is not traditionally rural in nature, it is considered that it is not of a scale that would dominate the surrounding area or create a significant visual impact. The caravan is in a position within the site which minimises its visual impact from public roads and the settlement of Nemphlar. It is located adjacent to existing outbuildings which further screens it from public view. The planning submission shows that it has been partially painted brown which is considered a more appropriate, muted colour than the green it was originally finished in. It is considered that painting the whole caravan in brown would further soften its appearance and be more in keeping with the surrounding landscape. A condition requiring the caravan to be wholly painted in brown forms part of the recommendation. The fencing is considered suitable in an agricultural setting. A condition stating that the caravan must remain in its current situ forms part of the recommendation of approval to ensure it is not re-located to a different part of the site where it may have an increased visual and amenity impact. It is considered that, subject to the aforementioned conditions relating to the external finish and siting of the caravan, the development meets the relevant criteria of the development plan in this instance.
- 6.6 Policy 14: Natural and Historic Environment provides the context for assessing all development proposals in terms of their effect on the character and amenity of the natural and built environment. The application site is not within a Conservation Area or involves a Listed building or any other historic asset and will therefore have no impact upon the historic environment. In terms of the natural environment, it is noted that hedgerow was removed to widen the existing field access where the fence is now installed. Whilst concerns have been raised regarding the potential of the hedgerow removal being carried out during bird nesting season, this did not need planning permission in its own right. The event and the timing of its removal is therefore not a material consideration to the assessment of this planning application. In terms of the concerns raised regarding bats it is considered that the proposals do not involve the removal of any trees or existing buildings where bats may be present. Concerns regarding badgers have also been raised and again it is considered that the caravan

and fence do not have solid foundations which would have involved any ground works and therefore it is considered that there would not be any significant direct impact upon this protected species. A condition stating that the caravan must remain in its current situ forms part of the recommendation of approval to ensure it is not re-located to a different part of the site that may impinge on protected species. It is therefore considered that the proposals comply with the relevant criteria of the development plan in this instance.

- 6.7 In conclusion, it is considered that the proposed development complies with planning policy and is acceptable. It is therefore recommended that planning permission is therefore granted subject to the conditions within the paper apart below.

7. Reasons for Decision

- 7.1 The proposal will not result in a significant adverse impact on either residential or visual amenity and generally complies with the provisions of Policies 1, 2, 4, 5, 14 and DM1 of the South Lanarkshire Local Development Plan 2. There are no other material considerations that would justify the refusal of planning consent.

David Booth

Executive Director (Community and Enterprise Resources)

Date: 17 March 2022

Previous references

- ◆ None

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated 5 March 2021

- ▶ Consultations
 - Roads Development Management Team 12.05.2021

- ▶ Representations Dated:
 - Mr Mark Graham, Forrestfield, Hall Road, Nemphlar, Lanark, ML11 9JE 25.10.2021
 - Mr Ken Snowdon, 1 Heather Road, Nemphlar, Lanark, South Lanarkshire, ML11 9JG 08.03.2021
 - Mrs Ruth Snowdon, 1 Heather Road, Nemphlar, Lanark, ML11 9JG 08.03.2021
 - Mr Ian Hardie, Braigh Croft, 3 Heather Road, Nemphlar, Lanark, ML11 9JG 06.03.2021
 - Miss Ruth Mccafferty, Braigh Croft, 3 Heather Road, Nemphlar, ML11 9JG 06.03.2021

Mr Anthony Rybicki, Heatherstane, 5 Hall Road, Nemphlar Lanark, ML11 9JE	11.03.2021
Miss Liz Rea, 17 Heather Road, Nemphlar, ML11 9JG	06.03.2021
Ruth McCafferty, Received Via Email	22.03.2021
Mrs Mairi Rybicki, Heatherstane, 5 Hall Road, Nemphlar, Lanark, ML11 9JE	11.03.2021
Mr Ian Hardie, Braigh Croft, 3 Heather Road, Nemphlar, Lanark, ML11 9JG	06.03.2021
Mr Ian Hardie, 3 Heather Road, Nemphlar, Lanark, ML11 9JG	11.11.2021
Mr Mark Graham, Forestfield, Hall Road, Nemphlar, ML11 9JE	22.10.2021

Contact for further information

If you would like to inspect the background papers or want further information, please contact:-

Stuart Connolly, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone:

Email: stuart.connolly@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: P/21/0061

Conditions and reasons

01. That the development, hereby approved shall be used solely for the purposes of providing welfare facilities to agricultural workers for the agricultural land associated with the applicant. For the avoidance of doubt the welfare facilities, hereby approved, do not form any residential or overnight accommodation.

Reason: In order to define the terms of the consent.

02. That within one month from the date of this permission, the entire external walls of the welfare unit, hereby approved, shall be painted in brown and maintained as such for the lifetime of the development, hereby approved.

Reason: In the interests of visual amenity.

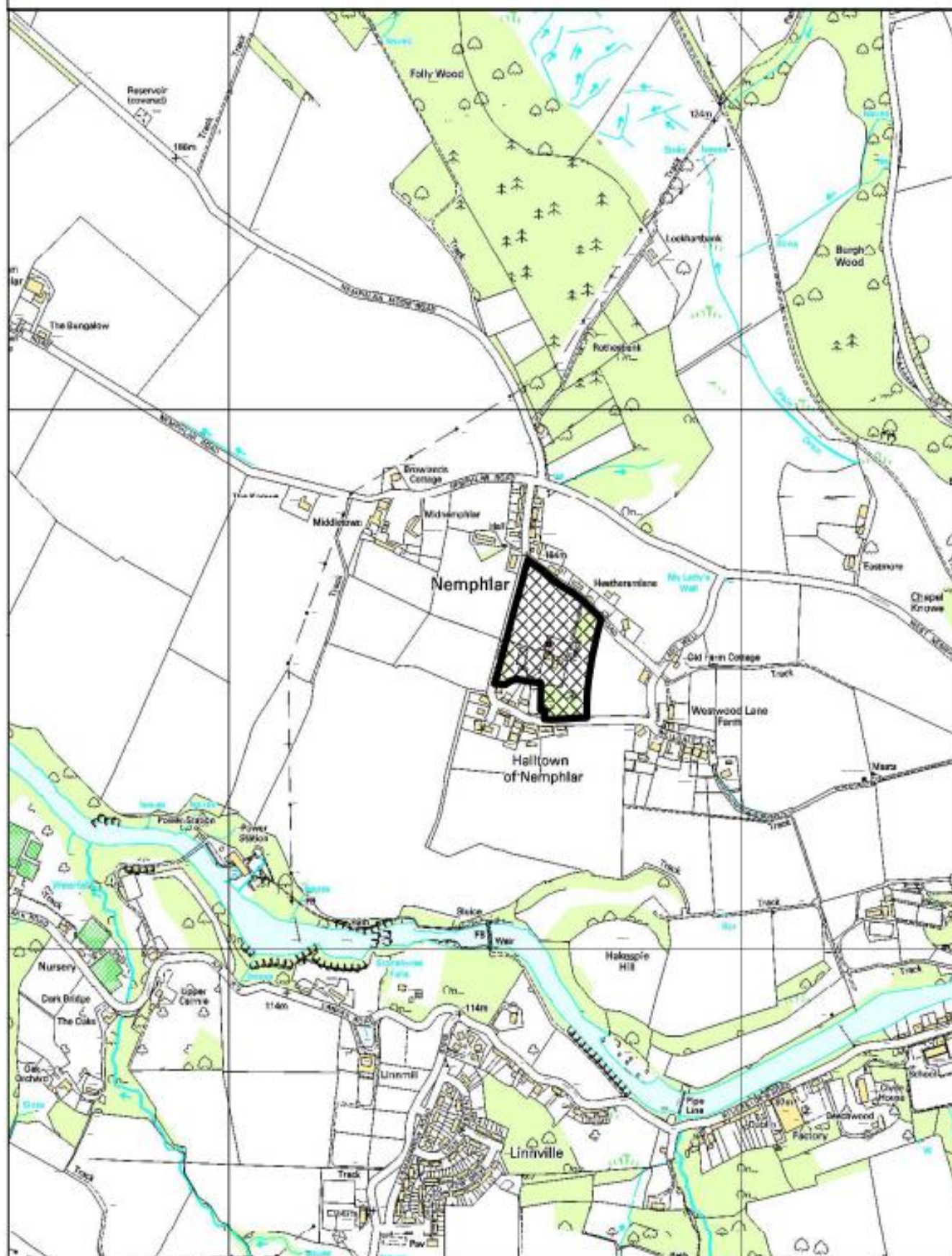
03. That the development, hereby approved, is only approved in the position annotated on approved drawing Number SPP2 titled "Site Plan: Proposed" and shall not be relocated to any other part of the application site without the express prior consent of the Council, as Planning Authority.

Reason: In the interests of the environment and amenity.

04. That there shall be no burning of materials on the site at any time.

Reason: To minimise any nuisance from smoke, smell and dust and to protect the amenities of neighbouring properties.

Land 140M South of 1 Heather Road, Nempflar



**SOUTH
LANARKSHIRE**
COUNCIL

South Lanarkshire Council
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Planning and Economic Development