



Council Offices, Almada Street,
Hamilton

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/CL/20/001

- ◆ Site address: 2 Howacre, Lanark ML11 7PL
- ◆ Application for review by Mr C Christison of the decision by an appointed officer of South Lanarkshire Council to refuse planning permission for planning application P/19/1545
- ◆ Application P/19/1545 for change of use of open space to form additional garden ground and erection of boundary fence
- ◆ Application Drawings: AR190729PL)001 REV A

Decision

The PLRB upholds the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/19/1545 for the reasons detailed in the Council's decision notice dated 20 December 2019.

Geraldine McCann

Head of Administration and Legal Services

Date of Decision Notice:

28 July 2020

1. Background

- 1.1 This Notice constitutes the formal decision notice of the Planning Local Review Body (PLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for planning permission was considered by the PLRB at its meeting on 22 June 2020. The PLRB was attended by Councillors Stephanie Callaghan, Maureen Devlin, Isobel Dorman (Chair), Mark Horsham (Depute), Ann Le Blond, Kenny McCreary, Davie McLachlan and Jim Wardhaugh.

2. Proposal

- 2.1 The proposal is for the change of use of open space to form additional garden ground and the erection of a boundary fence.
- 2.2 The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

3. Determining Issues

- 3.1 The determining issues in this review were the proposal's compliance with the Adopted South Lanarkshire Local Development Plan (SLLDP) and Supplementary Guidance (SG) and impact on the residential and visual amenity of the surrounding area.
- 3.2 The PLRB established that, in terms of the Adopted South Lanarkshire Local Development Plan, the site was located within the residential area. The following policies applied to the application site:-
- ◆ Policy 4 – development management and place making
 - ◆ Policy 6 – general urban area/settlements
 - ◆ Development Management, Placemaking and Design Supplementary Guidance – Policy DM13 (development within general urban area/settlement)
- 3.3 The Proposed South Lanarkshire Local Development Plan 2, approved on 29 May 2018, was also a material consideration in determining the application. The following policies applied to the application site:-
- ◆ Policy 3 – general urban areas and settlements
 - ◆ Policy 5 – development management and place making
- 3.4 Policy 4 of the Adopted South Lanarkshire Local Development Plan states that all planning applications will require to take account of and be integrated with the local context and built form and that development proposals should have no significant adverse impacts on the local community.
- 3.5 Policy 6 states that developments will not be permitted if they are detrimental to the amenity of residents. Each proposal will be judged on its own merits with particular consideration given to the impact on the amenity of the area.
- 3.6 Policy DM13 states that any development proposed within the general urban area/settlement must satisfy the following criteria:-
- ◆ the proposed development must relate satisfactorily to adjacent and surrounding development in terms of scale, massing, materials and intensity of use, except in circumstances where the existing local characteristics are considered to be of poor quality or detrimental to the overall character of the area. In such cases, the new development should be of good quality design and enhance the environment in which it is located
 - ◆ the character and amenity of the area must not be impaired by reason of traffic generation, parking, visual intrusion, noise or emission of gases and particulates
 - ◆ there must be no resultant loss of, or damage to, open or play spaces, trees, bushes or hedgerows which make a significant contribution to the character or amenity of the area
 - ◆ the development must be adequately serviced in terms of cycle, pedestrian and vehicular access, parking, accessibility and infrastructure for public transport
 - ◆ there must be no adverse effect on public safety
 - ◆ other supplementary guidance prepared by the Council must be taken account of, where relevant to the proposal

- 3.7 In terms of Policies 3 and 5 of the Proposed South Lanarkshire Local Development Plan 2, these policies are broadly consistent with, and build on, the policies and proposals contained in the Adopted South Lanarkshire Local Development Plan.
- 3.8 In considering the case, the PLRB had regard to the applicant's submission that:-
- ♦ the proposal more than safeguarded the character and enhanced the amenity space
 - ♦ the proposal had been reduced by 50% from the original application (reference P/19/0757). The issue of 'loss of public open space' was never raised during the process of the application
 - ♦ other planning applications to extend gardens into areas of open space had been approved
- 3.9 The PLRB noted that that there had been an oversight in the report of handling and the front page of the report should have indicated that the proposal was contrary to development plan policy and would have an impact on amenity.
- 3.10 In reviewing the case, the PLRB noted that the application site was located in a residential area. It considered that the loss of the valued area of open space would be detrimental to the character and amenity of the area and would establish a precedent prejudicial to priority green space designations.

4. Conclusion

- 4.1 The PLRB considered a request to review the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/19/1545. The PLRB concluded that the proposed development would be detrimental to the character and amenity of the area through loss of a valued area of public open space and would establish a precedent prejudicial to priority green space designations. As a result, the PLRB concluded that the proposal was contrary to Policies 4 and 6 of the Adopted South Lanarkshire Local Development Plan and Policy DM 13 of the Development Management Placemaking and Design Supplementary Guidance.
- 4.2 The PLRB, therefore, upheld the decision to refuse planning permission for planning application P/19/1545 for the reasons stated on the Council's decision notice dated 20 December 2019.

5. Accompanying Notice

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



NOTICE TO ACCOMPANY REFUSAL ETC

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

