



Montrose House 154 Montrose Crescent Hamilton ML3 6LB Tel: 0303 123 1015 Email: planning@southlanarkshire.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100268080-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Gainford Limited		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	
Last Name: *	Gainford	Building Number:	8
Telephone Number: *		Address 1 (Street): *	Woodlands Drive
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Lanark
Fax Number:		Country: *	United Kingdom
		Postcode: *	ML11 9FS
Email Address: *			

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="West Town House"/>
First Name: *	<input type="text" value="Andrew"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Blair"/>	Address 1 (Street): * <input type="text" value="Craigenhill Road"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text" value="Kilncadzow"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Carluke"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="ML8 4QT"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text"/>	

Site Address Details

Planning Authority:	<input type="text" value="South Lanarkshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="648697"/>	Easting	<input type="text" value="288352"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Residential development (Permission in Principle)

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☒ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Refer to Separate Supporting Document

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

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. You can attach these documents electronically later in the process: * (Max 500 characters)

All supporting documents are numbered and listed on Page 2 of Supporting Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

P/19/1861

What date was the application submitted to the planning authority? *

16/12/2019

What date was the decision issued by the planning authority? *

05/05/2020

Review Procedure

The 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 them 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

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

Can the site be clearly seen from a road or public land? *

☐ Yes ☒ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☐ Yes ☒ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

The entrance to the site is gated and locked in order to discourage vandalism. Arrangements can be made on request to the agent for the gate to be unlocked - given adequate advance notice

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. 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 Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. 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 (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Neil Gainford

Declaration Date: 16/06/2020

NOTICE OF REVIEW UNDER SECTION 43(A)8 OF THE
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (As Amended)
TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) (REGULATIONS 2013)

**STATEMENT IN SUPPORT OF
REQUEST TO REVIEW THE REFUSAL
BY SOUTH LANARKSHIRE COUNCIL OF
PLANNING APPLICATION REF: P/19/1861**

**Residential Development (Planning Permission in Principle)
Land 65 metres North-West of 16 Craigenhill Road,
Craigenhill Road,
Kilncadzow,
Carluke,
South Lanarkshire**

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APPELLANT’S PRODUCTIONS

- Production 1: Decision Notice P/19/1861
- Production 2: Extract from Planning Inspector Training Manual (Backland Development)
- Production 3: Supreme Court Judgment Tesco Stores v. Dundee City Council
- Production 4A: Approved Backland Development Application P/20/0156
- Production 4B: Approved Backland Development Application
- Production 4C: Approved Backland Development Application CL/18/0553
- Production 4D: Approved Backland Development Application
- Production 5: Committee Report on Application P/20/0156 Craighill Road
- Production 5A Chief Executive Minute of 16th May 2020 re Application P/20/0156
- Production 6: Aerial Photograph of Review Site With Distances to Nearest Houses
- Production 7: 1882 Ordnance Survey Plan of Kilncadzow.
- Production 8: Committee Report on Application CL/12/0421
- Production 9: Delegated Report on Application P/19/1861
- Production 10 Extract from Scottish Planning Policy
- Production 11 Scottish Farming Index
- Production 12: Photograph of the Existing Access to the Review Site

ACRONYMS AND TERMS USED IN STATEMENT

The Appellant	Mr Andrew Blair
PLRB	Planning Local Review Body
SLLDP	South Lanarkshire Local Development Plan (Adopted 2015)
SLLDP2	Proposed South Lanarkshire Local Development Plan 2 (2018)
Review Site	Site of Application P/19/1861
Review Proposal	Single Dwelling House as Proposed in Application P/19/1861
SPP	Scottish Planning Policy (2014)
The Council	South Lanarkshire Council

Executive Summary

The appellant fully accepts that it is the role of the Planning Local Review Body as the decision maker to decide what the key issues are in this Review case, and to determine this Planning Review accordingly as the Local Planning Review Body think fit.

The appellant suggests to the Local Planning Review Body that there are four key issues which should inform the Review Body's decision on this appeal. These key issues are:

- What is 'backland development'?
- In what way does the review proposal conflict with, and adversely affect the existing character and established pattern of development in Kilncadzow?
- In what way does the review proposal impact adversely on the residential amenity of adjoining properties?
- In what way is the refusal of the review proposal consistent with other recent Council decisions in which "backland development" recently has been permitted in Kilncadzow, and where exceptions to Green Belt and Rural Area policies have been allowed in other communities outwith town and village boundaries?

The appellant respectfully submits that the outcome of this Review should turn on the answers to these questions, and on the extent to which the Council's reasons for refusal are soundly based on the policies approved by South Lanarkshire Council with the adoption of the South Lanarkshire Local Development Plan in 2015.

It is submitted that the Planning Local Review Body should also consider the extent to which the case officer's decision is consistent with other recent Council decisions related to "backland development" and to decisions which relate to the acceptable extension of communities in the Green Belt and Rural Area as provided for under adopted Council Policy GBRA4 and emerging Policy GBRA7 of SLLDP2.

1.0 Introduction

- 1.1 The following Review Statement is presented in various sections. The following Section 2 describes the background to the proposal and sets out the Council's reasons for refusal.
- 1.2 Section 3 presents the appellant's view of the key issues presented by the Review. Sections 4 to 7 respond to the Council's reasons for refusal assessed against national and local development plan policies and all other material considerations relevant to this proposal..

2.0 Refusal Reasons

- 2.1 Planning Application P/19/1861 (Production 9) was refused planning permission under delegated powers by Decision Notice dated 5th May 2020. The Notice sets out the following reasons for the Council's decision¹.
1. *The proposed residential development would be contrary to Policy 3: Green Belt and Rural Area of the adopted South Lanarkshire Local Development Plan and Policy GBRA4 of the Green Belt and Rural Area Supplementary Guidance as it would constitute an inappropriate form of development within the Rural Area without any relevant justification.*
 2. *The location, orientation and relationship of the application site with adjacent dwellings is such that the proposal constitutes backland development which, if approved, would adversely affect the amenity of neighbouring properties. The proposal would therefore be contrary to Policy 4: Development Management and Placemaking of the Local Development Plan.*
 3. *The proposal would be contrary to Policy 4: Green Belt and Rural Area of the Proposed South Lanarkshire Local Development Plan 2 and Policy GBRA7 of the Green Belt and Rural Area Supplementary Guidance of the proposed SLLDP2 as it would constitute an inappropriate form of development within the rural area without any relevant justification.*
 4. *The proposal would be contrary to Policy 5: Development Management and Placemaking of the Proposed South Lanarkshire Local Development Plan 2 as it would constitute backland development which, if allowed, would adversely affect the amenity of neighbouring properties.*

¹ Appellant Production 1: Decision Notice P/19/1861

3.0 Key Issues for Determination in the Review

3.1 In the appellant's view there are 4 key issues which ought to be addressed in this Review. The issues are:

- What is 'backland development'?
- In what way is the refusal of the review proposal consistent with other recent Council decisions in which "backland development" and exceptions to Green Belt and Rural Area policies to have been allowed outwith town and village boundaries?
- In what way does the review proposal conflict with, and adversely affect the existing character and established pattern of development in Kilncadzow?
- In what way does the review proposal impact adversely on the residential amenity of adjoining properties?

4.0 What is Backland Development?

4.1 Refusal reasons 2 and 4 of Decision Notice P/19/1861 rely on the development constituting "*backland development*" and on a connotation that "*backland development*" is inseparable from loss of amenity.

4.2 There is no definition in statute, or in established planning case law of what is meant by 'backland development'. Rather, it is a pejorative term commonly used in planning practice to justify the rejection of proposals for development on sites which do not benefit from direct frontage to public roads.

4.3. The term "*backland development*" has its origins in the era in which the essence of planning control was to ensure uniformity and to secure compliance with rigid standards, particularly in relation to the geometry of road design, maximum car parking standards and minimum distance standards between facing buildings. This philosophy stultified innovative design and justified the refusal of any proposal which departed from standardisation.

4.4 In recent years the Scottish Government has sought to highlight the importance of design in preference to compliance with standards. Government policy as contained in "Designing Places", "*Planning Advice Note 76*" (PAN 76) "*Creating Places*", and "*Designing Streets*" has moved away from the former emphasis with regimented standards towards a less formal design-based approach to planning proposals.

4.5 This new approach does not disregard the need to respect privacy and overlooking considerations, but there is no presumption in national planning policy against "*backland development*". Similarly, there is no specific South Lanarkshire Council planning policy which prohibits or contains any presumption against "*backland development*".

4.6 Notwithstanding the absence of any national or local policy directive against “backland development”, a perception still remains with some local authority professional advisors that ‘*backland development*’ is inherently bad and is to be resisted.

4.7 The Planning Inspectorate in England and Wales and Scottish Government Reporters appointed to consider planning appeals are directed through their respective Training Manuals to avoid reliance on the term “*backland development*” and instead are advised to focus their assessment of appeal cases on measureable physical consequences of each proposal².

5.0 In What Way is the Refusal of the Review Proposal on Grounds of “Backland Development” Consistent with Comparable Recent Council Decisions?

5.1 The key issue raised by this question is whether there is any legal or moral obligation on the Council to determine like planning applications in a like manner. The standard defence frequently presented by planning authorities is that each application must be dealt with on its individual merits and as each application is materially different in one way or another, there is no common denominator which obliges planning authorities to adopt a consistent approach to decision making.

5.2 This defence is only correct to a point. It is well established in planning case law that the common denominator is the adopted development plan, and the wording of the policies contained within the development plan.

5.3 With regard to Reasons 2 and 4 of the Decision Notice, the outcome of the Review must turn on the correct interpretations of Policy 4 of the adopted Plan, and on Policy 5 of the emerging Plan.



Humpty Dumpty

5.4 The accepted dictum on the correct interpretation of local planning policy is contained in Lord Reed’s Supreme Court judgment in the case of *Tesco Stores v Dundee City Council*.³ In his judgment in this case, Lord Reed declared:

“The need for a proper understanding follows, in the first place, from the fact that the planning authority is required by statute to have regard to the provisions of the development plan: it cannot have regard to the provisions of the plan if it fails to understand them. It also follows from the legal status given to the development plan by section 25 of the 1997 Act.”

² Production 2: Extract Planning Inspectorate Training Manual

³ Production 3: *Tesco Stores v Dundee City Council* [2012]

“The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers.”

“Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that in principle, in this area of public administration, policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context.”

- 5.5 In the present case, the Local Planning Review Body is required by Section 25 of the 1997 Act to consider whether the Review Proposal is in accordance with the development plan and, if not, whether any material consideration justifies departing from the Plan.
- 5.6 In order to carry out that exercise, the Local Planning Review Body is required to proceed on the basis of what Lord Clyde⁴ described as **“a proper interpretation”** of the relevant provisions of the plan.
- 5.7 The adopted plan contains no prohibition of, or presumption against, *“backland development”*. Similarly the planning policies contained within the adopted Plan make no reference to *“backland development”*, and the Glossary which forms part of the Plan similarly contains no reference to, or definition of, what is meant by *“backland development”*. Therefore the Planning Local Review Body has no basis on which to determine that *“backland development”* is contrary to the policies of the Local Development Plan which the Council approved on 28th June 2015. .
- 5.8 Examination of recent decisions issued by the Council illustrates the inconsistency between the refusal of the Review proposal and other decisions relative to *“backland development”* as determined recently by officers under delegated powers. Productions 4A to 4D all relate to planning applications involving *“backland development”* considered under the same development plan policies which were used to justify refusal of the Review proposal. The difference is that all of the *“backland development”* proposals described in Productions 4A to 4D were approved.
- 5.9 It is submitted that the variance in decision making is attributable to the lack of clarity in the wording of development plan policy resulting in a failure by planning officers to properly understand and to apply approved Council planning policy in a consistent manner.

⁴ City of Edinburgh Council v. Secretary of State for Scotland (1997)

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- 5.10 Production 4A refers to a site in Kilncadzow which was granted planning permission by South Lanarkshire Council's Planning Committee on 26th May 2020⁵ (only 3 weeks after the Review proposal was refused by officers under delegated powers). The "*backland*" nature of the development is evident from the plan shown on Page 13 of Production 5. Production 5A⁶ minutes the Chief Executive's decision under Delegated Powers to approve Application P/20/0156.
- 5.11 Whereas both proposals could be regarded as being "*backland development*", the Review proposal when compared against P/20/0156 has far less impact on the amenity of adjoining development and similarly is a much more appropriate form of development in its context than the development approved by the Chief Executive under delegated powers.
- 5.12 Production 4B refers to a site in Lanark which the Delegated Report describes as "*backland development*". Despite being "*backland development*", the Lanark proposal was considered to comply with Policy 4 of the adopted plan insofar as the site was "*spacious*" and a house built on the site would be 10 metres from the nearest boundary.
- 5.13 The Review site is almost exactly the same size as the site shown on Production 4B, and a house centrally positioned on the Review site would be at least 20 metres from the nearest boundary and some 46 metres from the nearest house⁷ (Ref: Production 6). If the tests which justified approval of the Lanark site are applied to the Review proposal it must be concluded that the Review site also complies with Policy 4.
- 5.14 Productions 4C and 4D refer to two separate sites in Carluke, both of which are examples of "*backland development*". Two houses were approved on each site (4 houses in total) with the approved buildings on both sites being less than 3 metres from the boundaries of adjoining properties. Despite these limitations the proposals were regarded as complying with Policies 4 and DM3 of the adopted Plan and also complying with Policy 5 of the emerging Plan.
- 5.15 Policy 4 of the adopted Plan sets out 8 criteria against which proposals will be assessed. It is reasonable to expect that these tests should be applied uniformly and consistently. In comparison to the four examples included in Production 4A to 4D the Review site compares more favourably against these tests than any of the other "*backland development*" sites which were approved. These decisions give good reason to question whether these applications have been considered on a like-for-like manner. The Review proposal raises no policy conflict with Policy 4 and refusal reasons 2, 3 and 4 must be unsound.

⁵ Production 5: Committee Report on Planning Application P/20/0156

⁶ Production 5A: Minute of Chief Executive's Decisions of 26 May 2020

⁷ Production 6: Aerial Photograph of Review Site Showing Distances to Nearest Properties

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6.0 In what way does the review proposal conflict with, and adversely affect the existing character and established pattern of development in Kilncadzow?

6.1 Refusal Reason 1 is based on Policy 3 (Green Belt and Rural Area) of the adopted South Lanarkshire Local Development Plan and related policy GBRA4.

Policy 3

6.2 Refusal Reason 1 refers to the proposal being ***“an inappropriate form of development within the Rural Area without any relevant justification”***. The Decision Notice does not specify in what way the Review proposal is of an inappropriate form.

6.3 The Reason for the Decision is equally lacking in specification and simply states: **“The proposed development does not comply with the requirements of Policy 3 of the South Lanarkshire Local Development Plan (2015), Policy 4 and Policy GBRA4 of the Supplementary Guidance on Green Belt and Rural Area. The application is also contrary to Policy 4, Policy 5 and Policy GBRA7 of the proposed SLLDP2”**.

6.4 The appellant respectfully submits that Policy 3 does not provide any sound basis to reject the proposal as being an *“inappropriate form of development”*.

6.5 Policy 3 contains two distinct elements. The first paragraph (and 5 criteria) appear to relate to the Green Belt and the “countryside”. The second paragraph clearly is specific to the Rural Area.

6.6 The Review site is located in the Rural Area and is located adjoining but outwith the defined settlement boundary. The second paragraph of Policy 3 clarifies that limited expansion of an existing settlement may be appropriate *“where the proposal is proportionate to the scale and built form of the settlement”*. Therefore, Policy 3 does not preclude development of the Review site, provided that the proposal:

- (1) is proportionate to the scale of the settlement;
- (2) is proportionate to the built form of the settlement;
- (3) is supportive of the sustainability of the settlement; and
- (4) a defensible settlement boundary is maintained.

6.7 The Review proposal only comprises a single detached house therefore there is no conflict with Policy 3 in relation to the scale of the proposal. The addition of an extra house similarly raises no conflict in terms of the sustainability of Kilncadzow. In terms of a defensive settlement boundary, the Review site is bounded to the north by trees and bushes and the site is sufficiently large to accommodate significant additional tree cover which could be secured by condition on any planning approval.

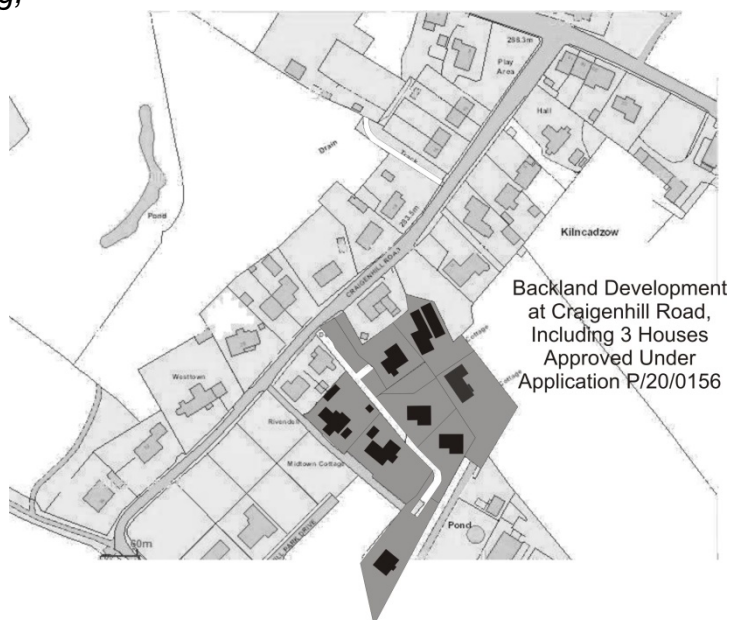
- 6.8 The site is accessed by a private access from Craighill Road (Production 12). The access is adequate for the single house proposed with the Review application, but the access would not be able to serve a larger development. For these reasons, the Review proposal if developed would maintain a defensible boundary.
- 6.9 The only other criterion to be satisfied under Policy 3 is whether the Review proposal is proportionate to the built form of Kilncadzow. The Decision Notice does not state in what way the Review proposal contrasts with the established character of Kilncadzow, but it is assumed by the reference in the Delegated Report to the village being “linear” and the multiple references in the Refusal Reasons to “*backland development*” suggest that the Council consider the proposal offends Policy 3 only by reason of being “*backland development*”.
- 6.10 Any assessment of the extent to which any form of development is consistent with or foreign to a community must start with an examination of the elements which contribute to character.
- 6.11 The shape and form of Kilncadzow village owes its origins to the working of limestone particularly at the local Craighill Lime Works. Throughout the 19th Century the village and lime works provided jobs for miners, blacksmiths and hauliers. The settlement pattern of the village was established during this period.
- 6.12 The original village was not “linear” as stated in the Delegated Report. The 1882 Ordnance Survey Plan⁸ of the village (Production 7) shows that that the village comprised some 65 dwelling houses. Most of the houses were sited in locations which now might be regarded as being “*backland development*”. Only 17 (approx. 25%) of the houses fronted Craighill Road. There is no evidence which supports the planning officer’s contention that the development pattern was “linear”.
- 6.13 It can be noted from Production 7 that the roadway from Craighill Road (Production 12) and which forms part of the Review site, was in existence in 1882 prior to the development of the modern houses which now adjoin the access on either side. In 1882 this roadway accessed 3 cottages albeit none of which was located on the Review site.
- 6.14 Over the following century the requirement for renewal and regimentation inherent in the 1947 Planning Act resulted in many of the gap sites being infilled, which might explain the planning officer’s comment in urban morphological terms that Kilncadzow might be described as “linear”
- 6.15 In historical terms the 50 year period following the approval of the 1947 Planning Act is relatively insignificant, and the appellant respectfully suggests that any assessment of the character of a community must have particular regard to the evolution of the character of the village both prior to the 1947 Act and more particularly to more recent developments which have been

⁸ Production 7: 1882 Edition of Ordnance Survey Plan of Kilncadzow

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permitted by the Council since the approval of the 2006 Planning Act and which have also changed the character of the village

- 6.16 The decision to refuse the Review proposal purportedly on the basis that it would introduce an inappropriate form of development is totally inconsistent with the most recent developments approved by the Council in Kilncadzow.
- 6.17 On 9th July 2013 planning permission was granted for a development which included 5 houses⁹ outwith the settlement boundary (Application CL/12/0421). The appellant accepts that the decision (Production 8) ostensibly was made under the South Lanarkshire Local Plan, however the application report also refers to the then emerging South Lanarkshire Local Plan and observes that its ***“policies are broadly consistent with the current local plan”***.
- 6.18 Although the 5 houses were outwith the village boundary and departed from a “linear” form (being accessed off a new cul-de-sac) the Committee Report variously observes:
- *“relationship to the existing settlement is considered acceptable for the location”*
 - *The site of the proposed residential plots is situated on the edge of the existing village settlement boundary and is considered to adequately integrate with the existing development pattern of the village.*
 - *It is considered that the proposal accords with Policies 2 Climate Change, 3 Green Belt and Rural Area, 4 Development Management & Place Making,*



- 6.19 More recently on 26th May 2020, planning permission was granted under delegated powers by the Chief Executive (Production 5A) for a development of 3 houses on backland off Craighill Road Kilncadzow (Application P/20/0156)

⁹ Committee Report on Application CL/12/0421

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6.20 As can be seen from the drawing above, the proposal augmented an existing group of backland houses served off private accesses similar to that enjoyed by the Review site. The proposal was assessed *inter alia* against Policy DM3 of the adopted Plan which requires development proposals to reflect the “*established pattern of development*”. It has already been shown that the established pattern of development is “*backland development*” which the approval of P/20/0156 reinforces. The report and recommendation approved by the Chief Executive acknowledge through the following statements that “*backland development*” is characteristic of Kilncadzow :

- “*a house and two plots can be accommodated within the land associated with Greenhill and Norwood that will be consistent with the existing building pattern in the area without any significant impact on the amenity or character of the area.*”
- “*the plots will allow for an appropriate form and scale of development for this location and, therefore, both elements of the proposal are considered to comply with Policy 4*”

6.21 The decisions taken by the Planning Committee in respect of Application CL/12/0421, and Application P/20/0156 are material considerations which the Planning Local Review Body must take into account in reaching a decision on this Review. The Local Review Body is invited to consider how the refusal of the Review proposal (P/19/1861) taken by officers under delegated powers can be reconciled with the approvals taken at Committee (CL/12/0421) and by the Chief Executive in consultation with Group Leaders (P/20/0156).

Policy GBRA4 (SLLDP) and Policy GBRA7 (SLLDP2)

6.22 Refusal Reason 2 refers to the Review proposal conflicting with Policy GBRA4 of the adopted Plan, and Refusal Reason 3 separately refers to the proposal conflicting with the comparable Policy GBRA7 of the Proposed South Lanarkshire Local Development Plan 2. There is no effective difference between GBRA4 and the emerging GBRA7 therefore this Statement will address both policies together.

6.23 Both policies deal with applications for small-scale developments immediately adjoining, but outwith the defined boundaries of communities. Both policies seek to ensure that any development which may be permitted will satisfy the following criteria:

- be of a small scale;
- respect the specific local character and the existing pattern of development of the community;
- maintain a defensible settlement boundary;
- have no adverse impact on the amenity of any existing houses;
- have no adverse impact on road safety and be readily served by all necessary infrastructure.

- 6.24 The Review proposal only involves the construction of a single dwelling house on a previously developed site immediately adjoining the settlement boundary of Kilncadzow. Therefore no tension with development plan policy arises in respect of the first bullet point listed above.
- 6.25 It has been shown earlier in this Statement that the principle of “*backland development*” not only has been a long-term characteristic of the development pattern in Kilncadzow, but also has been endorsed and consolidated by decisions taken by South Lanarkshire Council as recently as May 2020.
- 6.26 The Review proposal clearly maintains a defensible boundary for Kilncadzow and also respects the long-established pattern of development in the village. It is equally evident from Production 6 that no loss of amenity to any existing property would result from the approval of the proposal.
- 6.27 This Statement has shown that the Council has approved “*backland development*” which has resulted in houses being approved less than 3.00 metres from the boundaries of adjoining residential properties. In this Review case presently before the Local Planning Review Body, the proposal would not result in any direct ‘face to face’ relationship between any house. As can be seen from Production 6, the Review proposal if allowed would result in a minimum distance of 46 metres between the Review proposal and the nearest dwelling house. Therefore there would be no loss of amenity, no overlooking issues or loss of privacy in the event of the approval of the Review proposal.
- 6.28 The appellant submits that within the Clydesdale area of South Lanarkshire (with the exception of the Review site) no planning application for development on a site adjoining a settlement but outwith the settlement boundary has ever been refused on the basis that the development represented “an inappropriate form of development”. The appellant fully accepts that, should it be justified by circumstances, the wording of Policy GBRA4 and emerging Policy GBRA7 provide a sound policy basis to justify refusal on these grounds.
- 6.29 However, this Statement has demonstrably shown that the Review proposal is not an inappropriate form of development in Kilncadzow. The fact that this reason for refusal has never previously been supported in any of the 60 plus communities in the Clydesdale area since the policy was introduced highlights the exceptional nature of the refusal. It is submitted that it is reasonable to expect that any planning refusal which merits such an exceptional status ought to be justified with robust reasoning. No such reasoning is provided in the Delegated Report (Production 9).
- 6.30 The exceptional nature of the refusal of the Review proposal is further highlighted by innumerable instances of developments outwith settlement boundaries which have been permitted by the Council in recent years. Reference has already been made¹⁰ to a relevant material consideration in the earlier decision by the Council to approve a housing development outwith

¹⁰ Ref: Paragraphs 6.17 and 6.18 of this Statement (Application CL/12/0421)
Andrew Blair: Planning Review Statement: Land 65m NW of 16 Craigenhill Road,, Kilncadzow,

the designated boundary of Kilncadzow. The appellant accepts that other considerations may have applied in this case, but in reaching a decision on this application, the Council specifically over-ruled objections from local residents to the effect that the form of development as proposed was “*inappropriate*”.

- 6.31 This decision is particularly relevant to the present Review insofar as it established a new *benchmark* against which subsequent proposals required to be assessed. It is significant that the Delegated Report (Production 9) makes no reference to this decision, or to its implications.
- 6.32 Since the finalisation of the adopted South Lanarkshire Local Development Plan numerous exceptions have been made to allow development in Green Belt and Rural area situations adjoining existing communities. The following list is not exhaustive, but it further serves to illustrate the exceptional nature of the decision to refuse the Review proposal (Application P/19/1861). In the interests of brevity, separate Productions are not being submitted in respect of each of these cases, but the appellant will be pleased on request to supply plans, and Delegated Reports for all of the applications listed below:
- 6.33 Planning Applications approved outwith settlement boundaries under the SLLDP include:
- CL/16/0151: Tupps Road, Kilncadzow
 - CL/14/0392/ Millrigg Road, Wiston
 - CL/16/0459 Yieldshields
 - CL/17/0005 Libberton
 - CL/17/0109 Pettinain
 - CL/17/0458 Dillarburn
 - CL/17/0502 Ravenstruther
 - EK/17/0056 Chapelton
 - EK/17/0349 Glassford
 - HM/16/0109 Shawsburn
 - P/18/0395 Braidwood
 - P/18/0451 New Trows
 - P/19/0941 Braidwood
 - P/20/0131 Libberton

7.0 Other Material Considerations

(a) Scottish Planning Policy (SPP)

- 7.1 Scottish Planning Policy was issued by the Scottish Government in 2014. The purpose of the SPP is to set out national planning policies which reflect Scottish Ministers’ priorities for operation of the planning system and for the development and use of land. The SPP applies to all planning authorities and is intended to promote consistency in the application of planning policy across Scotland. SPP is a material consideration “***that carries significant weight***”.¹¹

¹¹ Paragraph (iii) Scottish Planning Policy

Andrew Blair: Planning Review Statement: Land 65m NW of 16 Craighill Road,, Kilncadzow,

- 7.2 The Delegated Reports justifying approval for most of the applications listed under paragraph 6.33 above include a standardised wording of the Council's interpretation of SPP insofar as it applies to developments situated on the edge of existing rural communities. The wording as contained in the Council's planning officers' reports is typically as follows:

*"Scottish Planning Policy encourages greater flexibility in assessing proposals for new housing in the rural area, in particular where it relates to existing building groups and where there would be no adverse environmental impact.
The SPP encourages Councils to take a positive approach to new development, with the overall aim being to enable development in rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality. SPP states that development plans should support more opportunities for small scale housing development in all rural areas, including extensions to settlements, new clusters and groups and extensions to existing clusters and groups."*

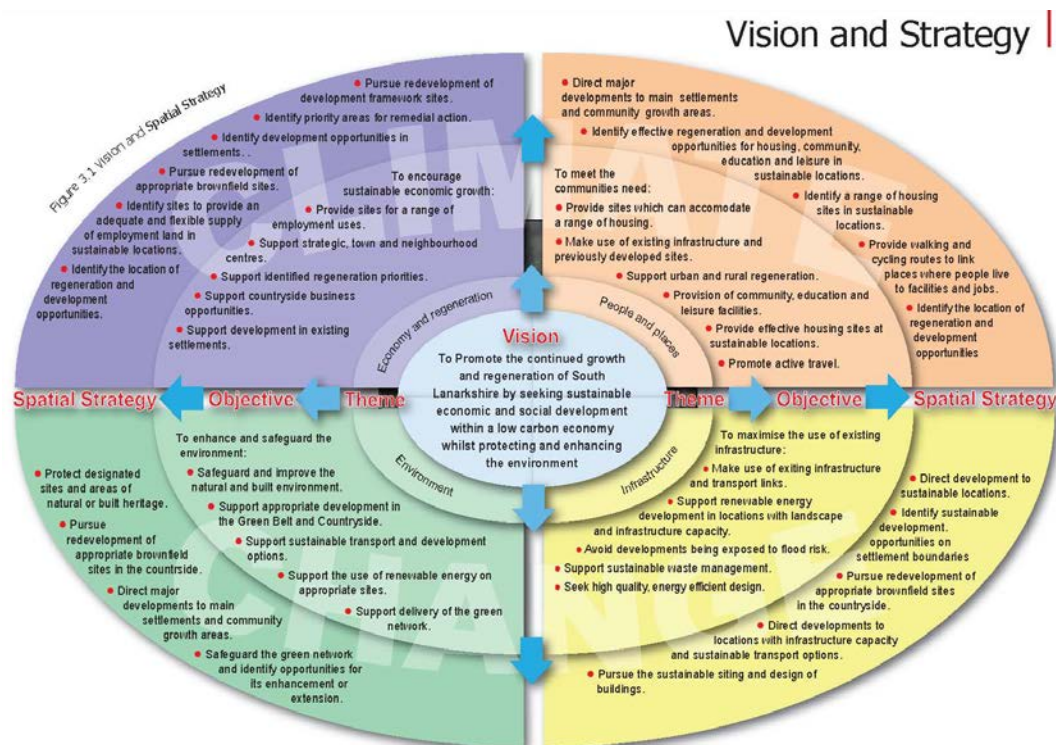
- 7.3 The Delegated Report (Production 9) on the Review proposal (Application P/19/1861) makes no reference to the need for **"greater flexibility"** or **"positive approach"** or to the Government's policy to support **"more opportunities for small scale housing"** or **"extensions to settlements"**.
- 7.4 The Delegated Report (Production 9) on the Review proposal omits any reference to these objectives of SPP, and instead focused only on a selective quotation from SPP which supported the officer's decision on the application.:

"This document [SPP] states that the planning system should in all rural areas promote a pattern of development that is appropriate to the character of the particular area and the challenges it faces, and encourage rural development that supports prosperous and sustainable communities"

- 7.5 The appellant does not challenge the validity of the selective extract from SPP. However SPP makes it clear in Paragraph (v) that this policy document should be **"read and applied as a whole"**¹². The appellant submits that it is misleading in the light of the context of Paragraph (v) of SPP for planning officers to extract particular statements from SPP and to disregard other key policy statements contained within the document which may point in a different direction from the outcome proposed by planning officials in their recommendation, or in this case to their decision, taken under delegated powers.

¹² Production 10: Extract from Scottish Planning Policy (Paragraph v.)
Andrew Blair: Planning Review Statement: Land 65m NW of 16 Craighill Road, Kilncadzow,

- 7.6 Whilst elected members of the Council have limited, if any, input into planning decisions taken by officers under Delegated Powers, each decision ultimately is a reflection of the Council's approach towards development within the Council's administrative area.
- 7.7 In this regard, the appellant submits that Application P/19/1861 has not been subject to a proper balanced planning consideration, and members of the Planning Local Review Board should be aware that officer's decision on the Review proposal (P.19/1861) is unsound in a number of respects.
- (b) Previously Developed Land
- 7.8 The Delegated Report on Application P/19/1861 acknowledges in paragraph 3.3.1 that planning permission in detail was granted on 28th November 2007 on the Review site for the formation of an equestrian riding arena and associated stables. The equestrian arena was implemented and remained in regular use for over 10 years.
- 7.9 One of the key principles inherent in SPP is the requirement for planning authorities to promote the re-use of previously developed land before considering approval of any development on greenfield sites.
- 7.10 Similarly, three of the four themes central to the strategy contained in the Council adopted SLLDP support the principle of making effective use of "previously developed land" and specifically refer to the need to "promote redevelopment of appropriate brownfield sites in the countryside" (See Vision and Strategy Diagram below)



- 7.11 Submissions to the Examination into objections to the SLLDP2 have presented evidence suggesting that there is a shortfall in effective housing land in the Clydesdale Housing Market Area. The extent to which there is a shortfall will be determined by the Reporters in their findings on completion of the Examination.
- 7.12 Confirmation by the Reporters of the existence of a shortfall in effective housing land would invoke Policy 12 of the adopted SLLDP. Policy 12 states that in the event of a shortfall in effective housing land the Council will support development proposals which are effective for (i) urban capacity sites, (ii) additional brownfield sites and (iii) sustainable greenfield sites.
- 7.13 The Delegated Report on the Review proposal acknowledges that the Review site was developed over 10 years ago to form an equestrian arena. Following the grant of permission, the topsoil was stripped and an all-weather equestrian surface was installed.
- 7.14 The Review site extends to some 2000 sq metres (0.49 acres) in area. The Delegated Report makes no reference to any acceptable alternative use for the site. It is assumed that the Council may therefore anticipate the land returning to agricultural use. Agricultural land for permanent pasture which is the most realistic agricultural use for a site of this size at this altitude, once restored to grassland, may realise a maximum agricultural value ranging between £1,300 and (very optimistically) £4,500. (Production 11)
- 7.15 In order to return the land to agricultural use the existing equestrian surface needs to be removed, and replaced with topsoil and seeded. The main costs associated with this work would be transport costs. On the assumption that the site requires to be covered with 75 mm of topsoil, the costs alone of hauling topsoil to the site could be in excess of £8,000 (ie twice the resultant maximum value of the land for agricultural purposes). These figures do not take into account of the costs of site clearance, taxable disposals or costs associated with the Removal of Surface Soil Act
- 7.16 it should be evident from these figures that there is no realistic prospect of the site ever reverting to agricultural use. Unless reversed by the Planning Local Review Board, the planning officer's decision allows for no reasonable alternative future for the site. It is submitted that in such circumstances the lack of passive supervision of a disused site would result in a far greater loss of amenity to adjoining properties than would result from the site being occupied by a single dwelling house.

8.0 Conclusion

- 8.1 Long-standing Members of the PLRB will recall that a similar proposal came before the PLRB on 19th June 2017 (Application CL/16/0435). Following consideration of the Review, the PLRB then endorsed the planning officer's decision to refuse the application.
- 8.2 It is reasonable to expect that Members of the PLRB should ask why a different decision is now be justified.
- 8.3 In response to this question, the appellant submits that the officer's decision on Application CL/16/0435 was unsound. For various reasons including undue reliance on the same arguments, the decision on the Review proposal Application P/19/1861 is equally unsound.
- 8.4 In addition, some key decisions taken recently by the Council introduce other considerations which are directly relevant to the outcome of this Review. These decisions post-date the Review decision on CL/16/0435 and therefore were not before the PLRB in June 2017. A key decision in this regard is the Chief Executive's recent decision on Application P/20/0156 to approve 3 houses on another "*backland*" site at Kilncadzow.
- 8.5 The officer's reasons for refusal rely heavily on an assertion that the Review proposal is "*backland development*". It has been shown earlier in this submission that there is no planning policy backing either at national or strategic planning levels or in the Council's own adopted local development plan to support a refusal of planning permission on the grounds of "*backland development*".
- 8.6 Similarly it has been shown that the Review proposal satisfies all of the tests set out under Policy 4 (Small-Scale Settlement Extensions). In particular, the Review proposal raises no infrastructure issues, and has no adverse impact on biodiversity, or features which make a significant contribution to cultural, environmental or historic interests. Development of the Review site would not weaken the Council's position to resist further development, and the "*spacious*" nature of the site provides ample scope for additional boundary planting in order to achieve a completely secure "*defensive boundary*" to the community.
- 8.7 This Notice of Review shows that the planning officer's assertion to the effect that the character of Kilncadzow is "*linear*" is completely unfounded. It has been shown that the early morphology of the village was sporadic in nature, and as recently as May 2020 planning decisions have reinforced a move away from "*linear*" expansion of the village. There is no sound case to support the opinion that the Review proposal is an inappropriate form of development.

- 8.8 The size and shape of the review site permits the construction of a dwelling house which will not overlook, over-shadow or adversely affect the amenity of any adjoining property. The Review proposal satisfies all standards set out by the Council's Roads and Transport Services, and there is scope for adequate on-site parking and manoeuvring.
- 8.9 In summary, the Review proposal satisfies Policy 3 and Policy 4 of the adopted SLLDP and similarly satisfies Policy 4 , Policy 5 and Policy GBRA7 of the emerging SLLDP2. The Resons for Refusal are therefore unfounded, and the PLRB is respectfully invited to allow the proposal.

Karen Blair

[REDACTED]

16 June 2020

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

To : **Mr Andrew Blair**
C/O Agent

Per : **Robert French**
13 Woodlea Court,
Craigielsands, Beattock,
Moffat, DG10 9QQ,

With reference to your application received on **16.12.2019** for planning permission in principle under the above mentioned Act :

Description of proposed development:
Residential development (Permission in Principle)

Site location:
Land 65M Northwest Of 16 Craigenhill Road, Craigenhill Road, Kilncadzow,
Carluke, South Lanarkshire, ,

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

REFUSE PLANNING PERMISSION IN PRINCIPLE

for the above development in accordance with the plan(s) specified in this decision notice and the particulars given in the application, for the reason(s) listed overleaf in the paper apart.

Date: 5th May 2020

Head of Planning and Economic Development

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.
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South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development

South Lanarkshire Council

Refuse planning permission in principle

Paper apart - Application number: P/19/1861

Reason(s) for refusal:

01. The proposed residential development on the site would be contrary to Policy 3 : Green Belt and Rural Area of the adopted South Lanarkshire Local Development Plan and Policy GBRA4 of the Green Belt and Rural Area Supplementary Guidance as it would constitute an inappropriate development within the Rural Area.
02. The location, orientation and relationship of the application site with adjacent dwellings is such that the proposal constitutes backland development which, if approved, would adversely affect the amenity of neighbouring properties. The proposal would therefore be contrary to Policy 4: Development Management and Placemaking of the Local Development Plan.
03. The proposal would also be contrary to Policy 4: Green Belt and Rural Area of the approved Proposed South Lanarkshire Local Development Plan 2 and Policy GBRA7 of the Green Belt and Rural Area Supplementary Guidance of the proposed SLLDP2 as it would constitute an inappropriate form of development within the rural area without any relevant justification.
04. The proposal would also be contrary to Policy 5: Development Management and Placemaking of the approved Proposed South Lanarkshire Local Development Plan 2 as it would constitute backland development which, if allowed, would adversely affect the amenity of neighbouring properties.

Reason(s) for decision

The proposed development does not comply with the requirements of Policy 3 of the South Lanarkshire Local Development Plan (2015), Policy 4 and Policy GBRA4 of the Supplementary Guidance on Green Belt and Rural Area. The application is also contrary to Policy 4, Policy 5 and Policy GBRA7 of the proposed SLLDP2.

Notes to applicant

Application number: P/19/1861

Important

The following notes do not form a statutory part of this decision notice. However, it is recommended that you study them closely as they contain information which guides you to other relevant matters that may assist in ensuring that the development is properly carried out.

01. This decision relates to drawing numbers:

Reference	Version No:	Plan Status
P1		Approved
P2		Approved

PRODUCTION: 2

Planning Review

Application : P/19/1861

Extract From Planning Inspector Training Manual

Framing main issues

23. Well-defined issues are the key to clear focussed reasoning. They are the matters on which your decision will turn.

Check - are your main issues:

- written in a simple, straightforward way?
- short - avoiding long sentences with sub-clauses?
- neutral – to avoid any suggestion that you have determined the outcome before considering the merits of the cases? So, for example: *'The effect of the proposed development on the character and appearance of the area'* rather than: *'Would the significant bulk of the building harm the character of the area?'*
- framed in such a way that they allow you to evaluate all the relevant arguments? - ie do your main issues and your reasoning correlate?
- clear and specific about the alleged harm? For example: *'the effect on the living conditions of neighbouring residents at 4 Main Street with particular regard to overlooking and loss of daylight'* – but avoid long winded main issues - if there are a number of dwellings and different concerns you may just need to refer to *'the effect on the living conditions of neighbouring residents.'*

- focused on the practical consequences of the development, rather than any technical or semantic points? – For instance, if there is an argument about whether the scheme amounts to 'over-development' or 'backland development' – try to look at the underlying concern. For example, in such cases might the substantive concern be about *character and appearance* or *living conditions* - for example.

24. When framing your main issues have you made sure:

- that you have dealt with any topic that leads to the appeal being dismissed as a 'main issue'. An issue which leads to an appeal being dismissed cannot logically be regarded as a less important '*other matter*'? and



JUDGMENT

Tesco Stores Limited (Appellants) v Dundee City Council (Respondents) (Scotland)

before

**Lord Hope, Deputy President
Lord Brown
Lord Kerr
Lord Dyson
Lord Reed**

JUDGMENT GIVEN ON

21 March 2012

Heard on 15 and 16 February 2012

Appellants

Martin Kingston QC
Jane Munro
(Instructed by Semple
Fraser LLP)

Respondents

Douglas Armstrong QC
James Findlay QC
(Instructed by Gillespie
Macandrew LLP)

*Interveners (Asda Stores
Limited and MacDonald
Estates Group PLC)*
Malcolm Thomson QC
Kenny McBrearty
(Instructed by Brodies
LLP)

LORD REED (with whom Lord Brown, Lord Kerr and Lord Dyson agree)

1. If you drive into Dundee from the west along the A90 (T), you will pass on your left a large industrial site. It was formerly occupied by NCR, one of Dundee's largest employers, but its factory complex closed some years ago and the site has lain derelict ever since. In 2009 Asda Stores Ltd and MacDonald Estates Group plc, the interveners in the present appeal, applied for planning permission to develop a superstore there. Dundee City Council, the respondents, concluded that a decision to grant planning permission would not be in accordance with the development plan, but was nevertheless justified by other material considerations. Their decision to grant the application is challenged in these proceedings by Tesco Stores Ltd, the appellants, on the basis that the respondents proceeded on a misunderstanding of one of the policies in the development plan: a misunderstanding which, it is argued, vitiated their assessment of whether a departure from the plan was justified. In particular, it is argued that the respondents misunderstood a requirement, in the policies concerned with out of centre retailing, that it must be established that no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres.

The legislation

2. Section 37(2) of the Town and Country Planning (Scotland) Act 1997, as in force at the time of the relevant decision, provides:

“In dealing with [an application for planning permission] the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.”

Section 25 provides:

“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise –

(a) to be made in accordance with that plan...”

The development plan

3. The development plan in the present case is an “old development plan” within the meaning of paragraph 1 of Schedule 1 to the 1997 Act. As such, it is defined by section 24 of the 1997 Act, as that section applied before the coming into force of section 2 of the Planning Etc. (Scotland) Act 2006, as including the approved structure plan and the adopted or approved local plan. The relevant structure plan in the present case is the Dundee and Angus Structure Plan, which became operative in 2002, at a time when the NCR plant remained in operation. As is explained in the introduction to the structure plan, its purpose is to provide a long term vision for the area and to set out the broad land use planning strategy guiding development and change. It includes a number of strategic planning policies. It sets the context for local plans, which translate the strategy into greater detail. Its preparation took account of national planning policy guidelines.

4. The structure plan includes a chapter on town centres and retailing. The introduction explains that the relevant Government guidance is contained in National Planning Policy Guidance 8, *Town Centres and Retailing* (revised 1998). I note that that document (NPPG 8) was replaced in 2006 by *Scottish Planning Policy: Town Centres and Retailing* (SPP 8), which was in force at the time of the decision under challenge, and which was itself replaced in 2010 by *Scottish Planning Policy* (SPP). The relevant sections of all three documents are in generally similar terms. The structure plan continues, at para 5.2:

“A fundamental principle of NPPG 8 is that of the sequential approach to site selection for new retail developments ... On this basis, town centres should be the first choice for such developments, followed by edge of centre sites and, only after this, out of centre sites which are currently or potentially accessible by different means of transport.”

In relation to out of centre developments, that approach is reflected in Town Centres and Retailing Policy 4: Out of Centre Retailing:

“In keeping with the sequential approach to site selection for new retail developments, proposals for new or expanded out of centre retail developments in excess of 1000 sq m gross will only be acceptable where it can be established that:

- no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres;
- individually or cumulatively it would not prejudice the vitality and viability of existing city, town or district centres;
- the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of the above centres;
- the site is readily accessible by modes of transport other than the car;
- the proposal is consistent with other Structure Plan policies.”

5. The relevant local plan is the Dundee Local Plan, which came into operation in 2005, prior to the closure of the NCR plant. Like the structure plan, it notes that national planning policy guidance emphasises the need to protect and enhance the vitality and viability of town centres. It continues, at para 52.2:

“As part of this approach planning authorities should adopt a sequential approach to new shopping developments with first preference being town centres, which in Dundee’s case are the City centre and the District Centres.”

That approach is reflected in Policy 45: Location of New Retail Developments:

“The City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments outwith these locations will only be acceptable where it can be established that:

- a) no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres; and

- b) individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres; and
- c) the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres; and
- d) the site is readily accessible by modes of transport other than the car; and
- e) the proposal is consistent with other Local Plan policies.”

6. It is also relevant to note the guidance given in NPPG 8, as revised in 1998, to which the retailing sections of the structure plan and the local plan referred. Under the heading “Sequential Approach”, the guidance stated:

“12. Planning authorities and developers should adopt a sequential approach to selecting sites for new retail, commercial leisure developments and other key town centre uses ... First preference should be for town centre sites, where sites or buildings suitable for conversion are available, followed by edge-of-centre sites, and only then by out-of-centre sites in locations that are, or can be made easily accessible by a choice of means of transport ...

13. In support of town centres as the first choice, the Government recognises that the application of the sequential approach requires flexibility and realism from developers and retailers as well as planning authorities. In preparing their proposals developers and retailers should have regard to the format, design, scale of the development, and the amount of car parking in relation to the circumstances of the particular town centre. In addition they should also address the need to identify and assemble sites which can meet not only their requirements, but in a manner sympathetic to the town setting. As part of such an approach, they should consider the scope for accommodating the proposed development in a different built form, and where appropriate adjusting or sub-dividing large proposals, in order that their scale might offer a better fit with existing development in the town centre ...

14. Planning authorities should also be responsive to the needs of retailers and other town centre businesses. In consultation with the private sector, they should assist in identifying sites in the town

centre which could be suitable and viable, for example, in terms of size and siting for the proposed use, and are likely to become available in a reasonable time ...

15. Only if it can be demonstrated that all town centre options have been thoroughly addressed and a view taken on availability, should less central sites in out-of-centre locations be considered for key town centre uses. Where development proposals in such locations fall outwith the development plan framework, it is for developers to demonstrate that town centre and edge-of-centre options have been thoroughly assessed. Even where a developer, as part of a sequential approach, demonstrates an out-of-centre location to be the most appropriate, the impact on the vitality and viability of existing centres still has to be shown to be acceptable ...”

The consideration of the application

7. The interveners’ application was for planning permission to develop a foodstore, café and petrol filling station, with associated car parking, landscaping and infrastructure, including access roads. The proposals also involved improvements to the junction with the A90 (T), the upgrading of a pedestrian underpass, the provision of footpaths and cycle ways, and improvements to adjacent roadways. A significant proportion of the former NCR site lay outside the application site. It was envisaged that vehicular access to this land could be achieved using one of the proposed access roads.

8. In his report to the respondents, the Director of City Development advised that the application was contrary to certain aspects of the employment and retailing policies of the development plan. In relation to the employment policies, in particular, the proposal was contrary to policies which required the respondents to safeguard the NCR site for business use. The Director considered however that the application site was unlikely to be re-developed for business uses in the short term, and that its re-development as proposed would improve the development prospects of the remainder of the NCR site. In addition, the infrastructure improvements would provide improved access which would benefit all businesses in an adjacent industrial estate.

9. In relation to the retailing policies, the Director considered the application in the light of the criteria in Retailing Policy 4 of the structure plan. In relation to the first criterion he stated:

“It must be demonstrated, in the first instance, that no suitable site is available for the development either within the city/district centres or, thereafter on the edge of these centres ... While noting that the Lochee District Centre lies within the primary catchment area for the proposal, [the retail statement submitted on behalf of the interveners] examines the potential site opportunities in and on the edge of that centre and also at the Hilltown and Perth Road District Centres. The applicants conclude that there are no sites or premises available in or on the edge of existing centres capable of accommodating the development under consideration. Taking account of the applicant’s argument it is accepted that at present there is no suitable site available to accommodate the proposed development.”

In relation to the remaining criteria, the Director concluded that the proposed development was likely to have a detrimental effect on the vitality and viability of Lochee District Centre, and was therefore in conflict with the second criterion. The potential impact on Lochee could however be minimised by attaching conditions to any permission granted so as to restrict the size of the store, limit the type of goods for sale and prohibit the provision of concessionary units. The proposal was also considered to be in conflict with the third criterion: there was no deficiency in shopping provision which the proposal would address. The fourth criterion, concerned with accessibility by modes of transport other than the car, was considered to be met. Similar conclusions were reached in relation to the corresponding criteria in Policy 45 of the local plan.

10. In view of the conflict with the employment and retailing policies, the Director considered that the proposal did not fully comply with the provisions of the development plan. He identified however two other material considerations of particular significance. First, the proposed development would bring economic benefits to the city. The closure of the NCR factory had been a major blow to the economy, but the re-development of the application site would create more jobs than had been lost when the factory finally closed. The creation of additional employment opportunities within the city was considered to be a strong material consideration. Secondly, the development would also provide a number of planning benefits. There would be improvements to the strategic road network which would assist in the free flow of traffic along the A90 (T). The development would also assist in the re-development of the whole of the former NCR site through the provision of enhanced road access and the clearance of buildings from the site. The access improvements would also assist in the development of an economic development area to the west. These benefits were considered to be another strong material consideration.

11. The Director concluded that the proposal was not in accordance with the development plan, particularly with regard to the employment and retailing

policies. There were however other material considerations of sufficient weight to justify setting aside those policies and offering support for the development, subject to suitable conditions. He accordingly recommended that consent should be granted, subject to specified conditions.

12. The application was considered by the respondents' entire council sitting as the respondents' Development Quality Committee. After hearing submissions on behalf of the interveners and also on behalf of the appellants, the respondents decided to follow the Director's recommendation. The reasons which they gave for their decision repeated the Director's conclusions:

"It is concluded that the proposal does not undermine the core land use and environmental strategies of the development plan. The planning and economic benefits that would accrue from the proposed development would be important to the future development and viability of the city as a regional centre. These benefits are considered to be of a significant weight and sufficient to set aside the relevant provisions of the development plan."

The present proceedings

13. The submissions on behalf of the appellants focused primarily upon an alleged error of interpretation of the first criterion in Retailing Policy 4 of the structure plan, and of the equivalent criterion in Policy 45 of the local plan. If there was a dispute about the meaning of a development plan policy which the planning authority was bound to take into account, it was for the court to determine what the words were capable of meaning. If the planning authority attached a meaning to the words which they were not properly capable of bearing, then it made an error of law, and failed properly to understand the policy. In the present case, the Director had interpreted "suitable" as meaning "suitable for the development proposed by the applicant"; and the respondents had proceeded on the same basis. That was not however a tenable meaning. Properly interpreted, "suitable" meant "suitable for meeting identified deficiencies in retail provision in the area". Since no such deficiency had been identified, it followed on a proper interpretation of the plan that the first criterion did not require to be considered: it was inappropriate to undertake the sequential approach. The Director's report had however implied that the first criterion was satisfied, and that the proposal was to that extent in conformity with the sequential approach. The respondents had proceeded on that erroneous basis. They had thus failed to identify correctly the extent of the conflict between the proposal and the development plan. In consequence, their assessment of whether other material considerations justified a departure from the plan was inherently flawed.

14. The respondents had compounded their error, it was submitted, by treating the proposed development as definitive when assessing whether a “suitable” site was available. That approach permitted developers to drive a coach and horses through the sequential approach: they could render the policy nugatory by the simple expedient of putting forward proposals which were so large that they could only be accommodated outside town and district centres. In the present case, there was a site available in Lochee which was suitable for food retailing and which was sequentially preferable to the application site. The Lochee site had been considered as part of the assessment of the proposal, but had been found to be unsuitable because it could not accommodate the scale of development to which the interveners aspired.

15. In response, counsel for the respondents submitted that it was for the planning authority to interpret the relevant policy, exercising its planning judgment. Counsel accepted that, if there was a dispute about the meaning of the words in a policy document, it was for the court to determine as a matter of law what the words were capable of meaning. The planning authority would only make an error of law if it attached a meaning to the words which they were not capable of bearing. In the present case, the relevant policies required all the specified criteria to be satisfied. The respondents had proceeded on the basis that the proposal failed to accord with the second and third criteria. In those circumstances, the respondents had correctly concluded that the proposal was contrary to the policies in question. How the proposal had been assessed against the first criterion was immaterial.

16. So far as concerned the assessment of “suitable” sites, the interveners’ retail statement reflected a degree of flexibility. There had been a consideration of all sites of at least 2.5 ha, whereas the application site extended to 6.68 ha. The interveners had also examined sites which could accommodate only food retailing, whereas their application had been for both food and non-food retailing. The Lochee site extended to only 1.45 ha, and could accommodate a store of only half the size proposed. It also had inadequate car parking. The Director, and the respondents, had accepted that it was not a suitable site for these reasons.

Discussion

17. It has long been established that a planning authority must proceed upon a proper understanding of the development plan: see, for example, *Gransden & Co Ltd v Secretary of State for the Environment* (1985) 54 P & CR 86, 94 per Woolf J, affd (1986) 54 P & CR 361; *Horsham DC v Secretary of State for the Environment* (1991) 63 P & CR 219, 225-226 per Nolan LJ. The need for a proper understanding follows, in the first place, from the fact that the planning authority is required by statute to have regard to the provisions of the development plan: it

cannot have regard to the provisions of the plan if it fails to understand them. It also follows from the legal status given to the development plan by section 25 of the 1997 Act. The effect of the predecessor of section 25, namely section 18A of the Town and Country (Planning) Scotland Act 1972 (as inserted by section 58 of the Planning and Compensation Act 1991), was considered by the House of Lords in the case of *City of Edinburgh Council v Secretary of State for Scotland* 1998 SC (HL) 33, [1997] 1 WLR 1447. It is sufficient for present purposes to cite a passage from the speech of Lord Clyde, with which the other members of the House expressed their agreement. At p 44, 1459, his Lordship observed:

“In the practical application of sec 18A it will obviously be necessary for the decision-maker to consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it.”

18. In the present case, the planning authority was required by section 25 to consider whether the proposed development was in accordance with the development plan and, if not, whether material considerations justified departing from the plan. In order to carry out that exercise, the planning authority required to proceed on the basis of what Lord Clyde described as “a proper interpretation” of the relevant provisions of the plan. We were however referred by counsel to a number of judicial dicta which were said to support the proposition that the meaning of the development plan was a matter to be determined by the planning authority: the court, it was submitted, had no role in determining the meaning of the plan unless the view taken by the planning authority could be characterised as perverse or irrational. That submission, if correct, would deprive sections 25 and 37(2) of the 1997 Act of much of their effect, and would drain the need for a “proper interpretation” of the plan of much of its meaning and purpose. It would also make little practical sense. The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted

objectively in accordance with the language used, read as always in its proper context.

19. That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, 780 per Lord Hoffmann). Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean.

20. The principal authority referred to in relation to this matter was the judgment of Brooke LJ in *R v Derbyshire County Council, Ex p Woods* [1997] JPL 958 at 967. Properly understood, however, what was said there is not inconsistent with the approach which I have described. In the passage in question, Brooke LJ stated:

“If there is a dispute about the meaning of the words included in a policy document which a planning authority is bound to take into account, it is of course for the court to determine as a matter of law what the words are capable of meaning. If the decision maker attaches a meaning to the words they are not properly capable of bearing, then it will have made an error of law, and it will have failed properly to understand the policy.”

By way of illustration, Brooke LJ referred to the earlier case of *Northavon DC v Secretary of State for the Environment* [1993] JPL 761, which concerned a policy applicable to “institutions standing in extensive grounds”. As was observed, the words spoke for themselves, but their application to particular factual situations would often be a matter of judgment for the planning authority. That exercise of judgment would only be susceptible to review in the event that it was unreasonable. The latter case might be contrasted with the case of *R (Heath and Hampstead Society) v Camden LBC* [2008] 2 P & CR 233, where a planning authority’s decision that a replacement dwelling was not “materially larger” than its predecessor, within the meaning of a policy, was vitiated by its failure to understand the policy correctly: read in its context, the phrase “materially larger” referred to the size of the new building compared with its predecessor, rather than

requiring a broader comparison of their relative impact, as the planning authority had supposed. Similarly in *City of Edinburgh Council v Scottish Ministers* 2001 SC 957 the reporter's decision that a licensed restaurant constituted "similar licensed premises" to a public house, within the meaning of a policy, was vitiated by her misunderstanding of the policy: the context was one in which a distinction was drawn between public houses, wine bars and the like, on the one hand, and restaurants, on the other.

21. A provision in the development plan which requires an assessment of whether a site is "suitable" for a particular purpose calls for judgment in its application. But the question whether such a provision is concerned with suitability for one purpose or another is not a question of planning judgment: it is a question of textual interpretation, which can only be answered by construing the language used in its context. In the present case, in particular, the question whether the word "suitable", in the policies in question, means "suitable for the development proposed by the applicant", or "suitable for meeting identified deficiencies in retail provision in the area", is not a question which can be answered by the exercise of planning judgment: it is a logically prior question as to the issue to which planning judgment requires to be directed.

22. It is of course true, as counsel for the respondents submitted, that a planning authority might misconstrue part of a policy but nevertheless reach the same conclusion, on the question whether the proposal was in accordance with the policy, as it would have reached if it had construed the policy correctly. That is not however a complete answer to a challenge to the planning authority's decision. An error in relation to one part of a policy might affect the overall conclusion as to whether a proposal was in accordance with the development plan even if the question whether the proposal was in conformity with the policy would have been answered in the same way. The policy criteria with which the proposal was considered to be incompatible might, for example, be of less weight than the criteria which were mistakenly thought to be fulfilled. Equally, a planning authority might misconstrue part of a policy but nevertheless reach the same conclusion as it would otherwise have reached on the question whether the proposal was in accordance with the development plan. Again, however, that is not a complete answer. Where it is concluded that the proposal is not in accordance with the development plan, it is necessary to understand the nature and extent of the departure from the plan which the grant of consent would involve in order to consider on a proper basis whether such a departure is justified by other material considerations.

23. In the present case, the Lord Ordinary rejected the appellants' submissions on the basis that the interpretation of planning policy was always primarily a matter for the planning authority, whose assessment could be challenged only on the basis of unreasonableness: there was, in particular, more than one way in

which the sequential approach could reasonably be applied ([2010] CSOH 128, para 23). For the reasons I have explained, that approach does not correctly reflect the role which the court has to play in the determination of the meaning of the development plan. A different approach was adopted by the Second Division: since, it was said, the proposal was in head-on conflict with the retail and employment policies of the development plan, and the sequential approach offered no justification for it, a challenge based upon an alleged misapplication of the sequential approach was entirely beside the point (2011 SC 457, [2011] CSIH 9, para 38). For the reasons I have explained, however, even where a proposal is plainly in breach of policy and contrary to the development plan, a failure properly to understand the policy in question may result in a failure to appreciate the full extent or significance of the departure from the development plan which the grant of consent would involve, and may consequently vitiate the planning authority's determination. Whether there has in fact been a misunderstanding of the policy, and whether any such misunderstanding may have led to a flawed decision, has therefore to be considered.

24. I turn then to the question whether the respondents misconstrued the policies in question in the present case. As I have explained, the appellants' primary contention is that the word "suitable", in the first criterion of Retailing Policy 4 of the structure plan and the corresponding Policy 45 of the local plan, means "suitable for meeting identified deficiencies in retail provision in the area", whereas the respondents proceeded on the basis of the construction placed upon the word by the Director of City Development, namely "suitable for the development proposed by the applicant". I accept, subject to a qualification which I shall shortly explain, that the Director and the respondents proceeded on the latter basis. Subject to that qualification, it appears to me that they were correct to do so, for the following reasons.

25. First, that interpretation appears to me to be the natural reading of the policies in question. They have been set out in paras 4 and 5 above. Read short, Retailing Policy 4 of the structure plan states that proposals for new or expanded out of centre retail developments will only be acceptable where it can be established that a number of criteria are satisfied, the first of which is that "no suitable site is available" in a sequentially preferable location. Policy 45 of the local plan is expressed in slightly different language, but it was not suggested that the differences were of any significance in the present context. The natural reading of each policy is that the word "suitable", in the first criterion, refers to the suitability of sites for the proposed development: it is the proposed development which will only be acceptable at an out of centre location if no suitable site is available more centrally. That first reason for accepting the respondents' interpretation of the policy does not permit of further elaboration.

26. Secondly, the interpretation favoured by the appellants appears to me to conflate the first and third criteria of the policies in question. The first criterion concerns the availability of a “suitable” site in a sequentially preferable location. The third criterion is that the proposal would address a deficiency in shopping provision which cannot be met in a sequentially preferable location. If “suitable” meant “suitable for meeting identified deficiencies in retail provision”, as the appellants contend, then there would be no distinction between those two criteria, and no purpose in their both being included.

27. Thirdly, since it is apparent from the structure and local plans that the policies in question were intended to implement the guidance given in NPPG 8 in relation to the sequential approach, that guidance forms part of the relevant context to which regard can be had when interpreting the policies. The material parts of the guidance are set out in para 6 above. They provide further support for the respondents’ interpretation of the policies. Paragraph 13 refers to the need to identify sites which can meet the requirements of developers and retailers, and to the scope for accommodating the proposed development. Paragraph 14 advises planning authorities to assist the private sector in identifying sites which could be suitable for the proposed use. Throughout the relevant section of the guidance, the focus is upon the availability of sites which might accommodate the proposed development and the requirements of the developer, rather than upon addressing an identified deficiency in shopping provision. The latter is of course also relevant to retailing policy, but it is not the issue with which the specific question of the suitability of sites is concerned.

28. I said earlier that it was necessary to qualify the statement that the Director and the respondents proceeded, and were correct to proceed, on the basis that “suitable” meant “suitable for the development proposed by the applicant”. As paragraph 13 of NPPG 8 makes clear, the application of the sequential approach requires flexibility and realism from developers and retailers as well as planning authorities. The need for flexibility and realism reflects an inbuilt difficulty about the sequential approach. On the one hand, the policy could be defeated by developers’ and retailers’ taking an inflexible approach to their requirements. On the other hand, as Sedley J remarked in *R v Teesside Development Corporation, Ex p William Morrison Supermarket plc and Redcar and Cleveland BC* [1998] JPL 23, 43, to refuse an out-of-centre planning consent on the ground that an admittedly smaller site is available within the town centre may be to take an entirely inappropriate business decision on behalf of the developer. The guidance seeks to address this problem. It advises that developers and retailers should have regard to the circumstances of the particular town centre when preparing their proposals, as regards the format, design and scale of the development. As part of such an approach, they are expected to consider the scope for accommodating the proposed development in a different built form, and where appropriate adjusting or sub-dividing large proposals, in order that their scale may fit better with existing

development in the town centre. The guidance also advises that planning authorities should be responsive to the needs of retailers. Where development proposals in out-of-centre locations fall outside the development plan framework, developers are expected to demonstrate that town centre and edge-of-centre options have been thoroughly assessed. That advice is not repeated in the structure plan or the local plan, but the same approach must be implicit: otherwise, the policies would in practice be inoperable.

29. It follows from the foregoing that it would be an over-simplification to say that the characteristics of the proposed development, such as its scale, are necessarily definitive for the purposes of the sequential test. That statement has to be qualified to the extent that the applicant is expected to have prepared his proposals in accordance with the recommended approach: he is, for example, expected to have had regard to the circumstances of the particular town centre, to have given consideration to the scope for accommodating the development in a different form, and to have thoroughly assessed sequentially preferable locations on that footing. Provided the applicant has done so, however, the question remains, as Lord Glennie observed in *Lidl UK GmbH v Scottish Ministers* [2006] CSOH 165, para 14, whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.

30. In the present case, it is apparent that a flexible approach was adopted. The interveners did not confine their assessment to sites which could accommodate the development in the precise form in which it had been designed, but examined sites which could accommodate a smaller development and a more restricted range of retailing. Even taking that approach, however, they did not regard the Lochee site vacated by the appellants as being suitable for their needs: it was far smaller than they required, and its car parking facilities were inadequate. In accepting that assessment, the respondents exercised their judgment as to how the policy should be applied to the facts: they did not proceed on an erroneous understanding of the policy.

31. Finally, I would observe that an error by the respondents in interpreting their policies would be material only if there was a real possibility that their determination might otherwise have been different. In the particular circumstances of the present case, I am not persuaded that there was any such possibility. The considerations in favour of the proposed development were very powerful. They were also specific to the particular development proposed: on the information before the respondents, there was no prospect of any other development of the application site, or of any development elsewhere which could deliver equivalent planning and economic benefits. Against that background, the argument that a different decision might have been taken if the respondents had been advised that

the first criterion in the policies in question did not arise, rather than that criterion had been met, appears to me to be implausible.

Conclusion

32. For these reasons, and those given by Lord Hope, with which I am in entire agreement, I would dismiss the appeal.

LORD HOPE

33. The question that lies at the heart of this case is whether the respondents acted unlawfully in their interpretation of the sequential approach which both the structure plan and the relevant local plan required them to adopt to new retail developments within their area. According to that approach, proposals for new or expanded out of centre developments of this kind are acceptable only where it can be established, among other things, that no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres. Is the test as to whether no suitable site is available in these locations, when looked at sequentially, to be addressed by asking whether there is a site in each of them in turn which is suitable for the proposed development? Or does it direct attention to the question whether the proposed development could be altered or reduced so as to fit into a site which is available there as a location for this kind of development?

34. The sequential approach is described in National Planning Policy Guidance Policy 8, *Town Centres and Retailing*, para 5.2 as a fundamental principle of NPPG 8. In *R v Rochdale Metropolitan Borough Council, Ex p Milne*, 31 July 2000, not reported, paras 48-49, Sullivan J said that it was not unusual for development plan policies to pull in different directions and, having regard to what Lord Clyde said about the practical application of the statutory rule in *City of Edinburgh v Secretary of State for Scotland* 1998 SC (HL) 33 at p 44, that he regarded as untenable the proposition that if there was a breach of any one policy in a development plan a proposed development could not be said to be “in accordance with the plan”. In para 52 he said that the relative importance of a given policy to the overall objectives of the development plan was essentially a matter for the judgment of the local planning authority and that a legalistic approach to the interpretation of development plan policies was to be avoided.

35. I see no reason to question these propositions, to which Mr Kingston QC for the appellants drew our attention in his reply to Mr Armstrong’s submissions for the respondents. But I do not think that they are in point in this case. We are concerned here with a particular provision in the planning documents to which the

respondents are required to have regard by the statute. The meaning to be given to the crucial phrase is not a matter that can be left to the judgment of the planning authority. Nor, as the Lord Ordinary put it in his opinion at [2010] CSOH 128, para 23, is the interpretation of the policy which it sets out primarily a matter for the decision maker. As Mr Thomson for the interveners pointed out, the challenge to the respondents' decision to follow the Director's recommendation and approve the proposed development is not that it was *Wednesbury* unreasonable but that it was unlawful. I agree with Lord Reed that the issue is one of law, reading the words used objectively in their proper context.

36. In *Lidl UK GmbH v The Scottish Ministers* [2006] CSOH 165 the appellants appealed against a decision of the Scottish Ministers to refuse planning permission for a retail unit to be developed on a site outwith Irvine town centre. The relevant provision in the local plan required the sequential approach to be adopted to proposals for new retail development out with the town centre boundaries. Among the criteria that had to be satisfied was the requirement that no suitable sites were available, or could reasonably be made available, in or on the edge of existing town centres. In other words, town centre sites were to be considered first before edge of centre or out of town sites. The reporter held that the existing but soon to be vacated Lidl town centre site was suitable for the proposed development, although it was clear as a matter of fact that this site could not accommodate it. In para 13 Lord Glennie noted that counsel for the Scottish Ministers accepted that a site would be "suitable" in terms of the policy only if it was suitable for, or could accommodate, the development as proposed by the developer. In para 14 he said that the question was whether the alternative town centre site was suitable for the proposed development, not whether the proposed development could be altered or reduced so that it could fit in to it.

37. Mr Kingston submitted that Lord Glennie's approach would rob the sequential approach of all its force, and in the Inner House it was submitted that his decision proceeded on a concession by counsel which ought not to have been made: [2011] CSIH 9, 2011 SC 457, para 31. But I think that Lord Glennie's interpretation of the phrase was sound and that counsel was right to accept that it had the meaning which she was prepared to give to it. The wording of the relevant provision in the local plan in that case differed slightly from that with which we are concerned in this case, as it included the phrase "or can reasonably be made available". But the question to which it directs attention is the same. It is the proposal for which the developer seeks permission that has to be considered when the question is asked whether no suitable site is available within or on the edge of the town centre.

38. The context in which the word "suitable" appears supports this interpretation. It is identified by the opening words of the policy, which refer to "proposals for new or expanded out of centre retail developments" and then set out

the only circumstances in which developments outwith the specified locations will be acceptable. The words “the proposal” which appear in the third and fifth of the list of the criteria which must be satisfied serve to reinforce the point that the whole exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than that sought by the developer. It is worth noting too that the phrase “no suitable site is available” appears in Policy 46 of the local plan relating to commercial developments. Here too the context indicates that the issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers in para 28, above, they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so.

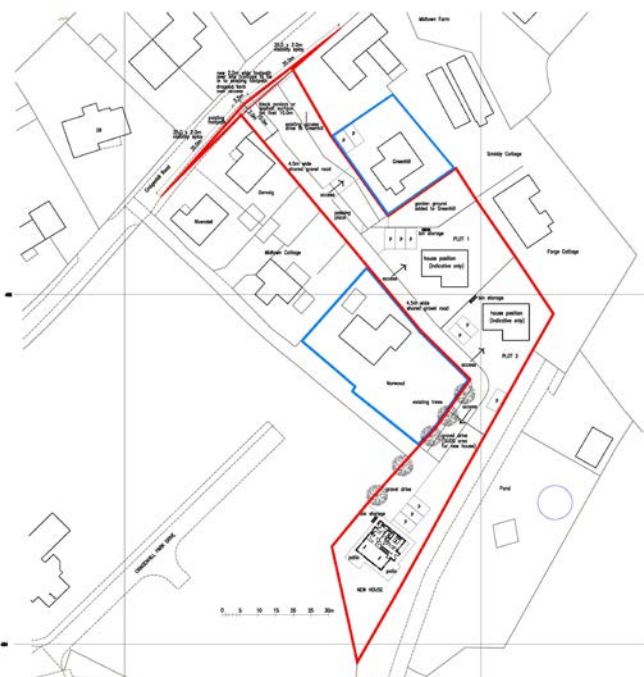
39. For these reasons which I add merely as a footnote I agree with Lord Reed, for all the reasons he gives, that this appeal should be dismissed. I would affirm the Second Division’s interlocutor.

APPELLANT'S PRODUCTION: 4A

Examples of "Backland" Development Approved by South Lanarkshire Council Since the Publication of the Finalised South Lanarkshire Local Development Plan

EXAMPLE 1: CRAIGHENHILL ROAD, KILNCADZOW

APPLICATION REF: P/20/0156



Application No	P/20/0156
No. of Plots Proposed	3
Council Decision	APPROVE
Date of Decision	26 May 2020
Days to Reach Decision	105
No. of Objections	8
Direct Road Frontage?	No
Distance From Nearest Property Boundary	4 metres

JUSTIFICATION FOR DECISION AS STATED IN OFFICER'S REPORT:

- "a house and two plots can be accommodated within the land associated with Greenhill and Norwood that will be **consistent with the existing building pattern** in the area without any significant impact on the amenity or character of the area". (emphasis added).

APPELLANT'S COMMENTS ON DECISION P/20/0156

The building pattern with which the proposal is said to be consistent is "**backland development**" which was the primary reason why the Review Proposal P/19/1861 was refused. It is totally inconsistent and against the principle of natural justice for the Council to refuse permission for one house on the Review site because of "**backland development**", and within a space of only 3 weeks to approve a mirror image proposal for "**backland development**" on a site situated less than 200 metres distant from the Review site.

APPELLANT'S PRODUCTION: 4B

Examples of "Backland" Development Approved by South Lanarkshire Council Since the Publication of the Finalised South Lanarkshire Local Development Plan

EXAMPLE 2: JERVISWOOD ROAD, LANARK

APPLICATION REF: CL/17/0030



Application No	CL/17/0030
No. of Plots Proposed	1
Council Decision	APPROVE
Date of Decision	7 March 2017
Days to Reach Decision	36
No. of Objections	4
Direct Road Frontage?	No
Distance From Nearest Neighbouring Boundary	10 metres

JUSTIFICATION FOR DECISION AS STATED IN OFFICER'S REPORT:

- ***"The application site is situated behind properties fronting the road so could be described as backland".***
- ***The indicative layout demonstrates that one dwellinghouse could be accommodated on the site at least 10m from each of the neighbouring property boundaries***
- ***it is considered that a dwellinghouse could be accommodated within this spacious site with sufficient separation from neighbouring rear gardens without undue adverse impact on residential amenity. Therefore, the proposal complies with Policy 4.***

APPELLANT' S COMMENTS ON DECISION CL/17/0030

The officer's report on Application CL/17/0030 acknowledges that the site can be described as "backland development". However the application was approved on the basis that the site measuring 2058 sq metres was "spacious" and would enable a house to be built allowing a 10 metre separation distance from neighbouring property boundaries. On this basis the proposal was considered to comply with Policy 4 –Development Management and Placemaking.

APPELLANT'S PRODUCTION: 4C

Examples of "Backland" Development Approved by South Lanarkshire Council Since the Publication of the Finalised South Lanarkshire Local Development Plan

EXAMPLE 3: 17 LANARK ROAD, CARLUKE

APPLICATION REF: CL/18/0553



Application No	CL/18/0553
No. of Plots Proposed	2
Council Decision	APPROVE
Date of Decision	19 November 2018
Days to Reach Decision	172
No. of Objections	3
Direct Road Frontage?	No
Distance From Nearest Property Boundary	3 metres (max)

JUSTIFICATION FOR DECISION AS STATED IN OFFICER'S REPORT:

- ***"The proposal provides sufficient garden and car parking provision ground for both houses. The proposed windows of habitable rooms do not directly overlook neighbouring dwelling houses due to the north-south orientation of the proposed houses preventing overlooking to an unacceptable degree and there is no loss of amenity by way of overshadowing. The proposed dwelling houses are at least 2m from side boundaries."***
- ***"Suitable parking and access arrangements are also available."***
- ***"In view of the above the proposal meets the terms of Policy 4, 6 and DM3 and related supplementary guidance and with Policies 3, 5 and DM6 of the Proposed South Lanarkshire Local Development 2."***

APPELLANT'S COMMENTS ON DECISION CL/18/0553

Although the proposal was clearly "backland development" in comparison to other Council interpretations, there is no reference to "backland development" in the report. In this example the buildings as approved are less than 3 metres in distance from the boundaries with adjoining houses, but the proposal was still considered to comply fully with all existing and emerging Council planning policies.

APPELLANT'S PRODUCTION: 4D

Examples of "Backland" Development Approved by South Lanarkshire Council Since the Publication of the Finalised South Lanarkshire Local Development Plan

EXAMPLE 4: 23 LANARK ROAD, CARLUKE

APPLICATION REF: CL/16/0361 and CL/13/0324



Application No	CL/16/0361
No. of Plots Proposed	2
Council Decision	APPROVE
Date of Decision	26 October 2016
Days to Reach Decision	49
No. of Objections	3
Direct Road Frontage?	No
Distance From Nearest Property Boundary	3 metres

JUSTIFICATION FOR DECISION AS STATED IN OFFICER'S REPORT:

- "The proposal can be successfully integrated without compromising residential and visual amenity and road safety. The house plots are of a sufficient size and the design and layout respects the character of the surrounding area. Therefore it complies with Policies RES 6, ENV 31, DM 1 and DM 5 of the South Lanarkshire Local Plan (Adopted) and accords with Policies 2, 4 and 6 of the Proposed South Lanarkshire Local Development Plan and associated Supplementary Guidance: Place Making and Design."***

APPELLANT'S COMMENTS ON DECISION CL/16/0361 (CL/13/0324)

This site lacks a primary road frontage and is contained between garden areas of adjoining residential properties. Although the proposal was clearly "backland development" by the Council's interpretation, there is no reference to "backland development" in the report. In this case the buildings as approved are less than 3 metres in distance from the boundaries with adjoining houses, but the proposal was still considered to comply fully with all existing and emerging Council planning policies.



Report

Report to:	Planning Committee
Date of Meeting:	26 May 2020
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/20/0156
Planning proposal:	Erection of a single storey house with attic accommodation, formation of two house plots and re-siting of existing access.

1 Summary application information

Application type:	Detailed planning application
Applicant:	Mr Gavin and Grace Whitefield
Location:	Norwood Craighenhill Road Kilncadzow ML8 4QT

2 Recommendation(s)

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

- (1) Grant planning approval subject to conditions (based on the conditions attached)

2.2 Other actions/notes

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

3 Other information

- ◆ Applicant's Agent: George Simpson
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s):
 - South Lanarkshire Local Development Plan**
 - Policy 4 Development management and placemaking
 - Policy 6 General urban area/settlements
 - Supplementary Guidance 3: Development Management, Placemaking and Design**
 - Policy DM3 Sub-division of garden ground
 - Policy DM13 Development within general urban area/settlement
 - Proposed SLDP2**
 - Policy 3 General Urban Areas
 - Policy 5 Development Management and Placemaking
 - Policy DM3 Subdivision of Garden Ground

◆ **Representation(s):**

▶	8	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

◆ **Consultation(s):**

Roads Development Management Team

Environmental Services

WOSAS

Planning Application Report

1 Application Site

- 1.1 The application site relates to land associated with the existing residential properties of Norwood and Greenhill at Craighill Road in Kilncadzow. Both donor houses are owned by the applicant and the site is used as additional garden and a small paddock for ancillary domestic use. The surrounding area is residential in character, with a mixture of small scale house types and designs. The land is located within the settlement boundary and will utilise a new private vehicle access replacing the existing access to Greenhill.

2 Proposal(s)

- 2.1 The applicant seeks detailed planning permission for the subdivision of the land for the erection of a single storey dwelling with attic accommodation and the formation of two house plots. The proposed development will all be accessed off a new private access which will also serve Greenhill, replacing the existing access to improve visibility when exiting onto Craighill Road. Access to the existing property Norwood shall continue to be unchanged via the existing separate access from Craighill Road.
- 2.2 The plans submitted in support of the application show the proposed new private access position, the position of the new dwelling on the southern plot adjacent to Norwood and a plot layout with indicative location for a house within each plot. The submitted drawings also show the detailed design for the proposed dwelling.

3 Background

3.1 Local Plan Status

- 3.1.1 Within the South Lanarkshire Local Development Plan (SLLDP) (Adopted 2015), the site is identified as being within the settlement boundary of Kilncadzow where Policy 6 General urban area/settlements applies. In addition, Policy 4 (Development Management and Place Making), Policy DM3 Sub-division of garden ground and Policy DM13 Development within general urban area/settlement also apply. In addition, Policies 3 General Urban Areas, 5 Development Management and Placemaking, DM3 Subdivision of Garden Ground following Supplementary Guidance of the Proposed SLDP2 will require to be taken into consideration.

3.2 Relevant Government Advice/Policy

- 3.2.1 Given the nature and scale of the proposal, there is no specific government guidance relevant to the determination of this application.

3.3 Planning Background

- 3.3.1 This application replaces an earlier withdrawn application P/19/1500 that proposed to create two new private accesses to service the three new residential units. Due to poor visibility on one of the accesses, the application was redesigned to use one access only.

4 Consultation(s)

- 4.1 **Roads Development Management Team** – No objections subject to conditions on access standards, visibility, parking, footpath provision and turning spaces.
Response: Noted. Conditions will be added to the decision notice to cover these issues should consent be issued.
- 4.2 **Environmental Services** – No Response received
Response: Noted
- 4.3 **West of Scotland Archaeological Service** – No objections subject to a condition requiring the implementation of a programme of archaeological works prior to development starting on site
Response: Noted. A condition will be added to the decision notice to cover this issue should consent be issued.

5 Representation(s)

- 5.1 Statutory neighbour notification was undertaken and the application advertised in the local paper for the no notification of neighbours, in response, 8 letters of objection were received from three local residents from two properties. The grounds of objection and comment made have been summarised as follows:

- a) **Concern about possible flooding of neighbouring land and property from the new development as the ground in this area already becomes water-logged in wet weather because existing drains are unable to cope with the surface water and sewage run off from existing properties in the Village. Ground conditions in the site and the surrounding land is unsuitable for soakaways or natural drainage. A drainage plan should be submitted as it is not clear how drainage will be discharged to the nearby burn. The application does not include a drainage impact assessment (including proposals for SUDS). From the details in the planning application and SEPA licence it is assumed no other properties other than the new dwelling at Plot 3 can connect to this system which is to discharge from a proposed private sewage system to Fullwood burn. Close proximity of any sewage treatment plants could lead to unpleasant odours. The proposed dwelling is at a lower ground level than the proposed SUDS area which will make it ineffective.**

Response: If the land adjacent to the site is prone to being waterlogged during heavy rainfall then this would suggest the drainage in that land is not adequate and possibly should be upgraded. Similarly, if the existing drainage in the adjoining farm land is not able to cope with the existing conditions then it is this system that should be repaired or replaced.

The applicant has provided a SEPA consent for the new house proposed at this location which includes the use of a package treatment plant and partial soakaway. This would clean the water and return it to the water table in this case via a partial soakaway to Fullwood Burn. As the approving authority of waste water disposal, SEPA has deemed this arrangement is acceptable for this location. These treatment plants are designed to be used in close proximity to the residential property and, if maintained, should not result in any unpleasant odours or contamination. This arrangement is for the proposed house only and, therefore, additional permissions from

SEPA will be required before any of the proposed plots can be developed. A condition will be placed on the decision should consent be granted requiring a SUDS system to be installed on the site that meets the Council's guidance before any of the houses are occupied.

The treatment of foul drainage would be a matter to be considered at the building warrant stage. However, a condition would be attached to any consent issued to ensure an appropriate scheme installed and maintained to the appropriate standards for this scale of development.

- b) **As there is no designated communal turning area present on the plans for this proposed development site this could cause a dangerous situation as construction traffic, delivery vans/lorries, emergency vehicles and fuel/gas tankers for example would have to reverse back onto the narrow main road (Craigenhill Road), or reverse from Craigenhill Road into said proposed development.**

Response: The Roads Service has raised no safety issues to the development in terms of the proposed access arrangements and subject to conditions on parking, visibility provision and turning areas for the development and has no objections to approving the development in its current form.

- c) **Concerns about road safety in terms of the impact of additional traffic on road users, pedestrians, dog walkers etc. Formal road infrastructure to the proposed development should be in place prior to any building work being carried out. Norwood shares a narrow single access track with Midtown Cottage and there are concerns about the possible use of this track during construction and after completion. The existing access track should be used only by the current 2 properties namely Midtown cottage and Norwood.**

Response: The Roads Service has no objections to the application on road safety grounds. Activity during the construction phase is dealt with under other legislation. The two properties referred to will still be accessed via the existing private road.

- d) **Due to the proposed access road being positioned tight against the existing boundary, the requirement to reduce the existing ground level to form the entrance and the height and proximity of the existing boundary hedge will result in reduced sight line/visibility splay for drivers leaving this junction which will be a danger to pedestrians and children on Craigenhill Road, to the play park.**

Response: As per the previous points made by another objector, the Roads Service has raised no road safety issues with the proposed development and is happy that the provision of a new footpath along the front of the site and the movement of the access to the south of the existing access improves the visibility of this private access to an acceptable standard for this scale of development at this location in the village. The level of detail provided by the applicant for the formation of a private access is considered acceptable to decide this application. Further details are required to be submitted to the Council for approval prior to works

commencing. Roads have advised that this new private access for 4 residential dwellings should have a min of 10m of hard standing.

- e) **No drainage is shown on the development access to prevent surface run off at the junction of Craighenhill Road. Any surface drainage should be incorporated into the development drainage proposal and be linked into the SUDS as careful consideration in these circumstances should be given to proper storm and foul drainage on new development sites.**

Response: The decision notice, if approved, shall contain a condition that surface water from the access shall be trapped to prevent excess water from entering the public road. As stated above, there will also be a requirement to design and install a SUDS system to serve the development

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

6 Assessment and Conclusions

6.1 The application proposes a small scale residential development on land at Craighenhill Road in Kilncadzow. The determining issues in the consideration of this application are its compliance with the adopted South Lanarkshire Local Plan and associated Supplementary Guidance and its impact on residential and visual amenity of the area and road safety.

6.2 The site is identified in the adopted South Lanarkshire Local Development Plan as being within the general urban area of Kilncadzow. Policy 6: General urban area/settlements states that residential developments may be acceptable provided they do not have a significant adverse impact on the amenity and character of the area. The applicant has shown that a house and two plots can be accommodated within the land associated with Greenhill and Norwood that will be consistent with the existing building pattern in the area without any significant impact on the amenity or character of the area. It is, therefore, concluded that the proposal complies with Policy 6.

6.3 Policies 4: Development Management and Place Making and DM13 Development within general urban area/settlement advise that all development proposals should take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community. This objective is reinforced by the associated Supplementary Guidance Development Management, Place Making and Design. In consideration, the proposed new dwelling design, scale and location is considered acceptable in terms of the surrounding development while the plots will allow for an appropriate form and scale of development for this location and, therefore, both elements of the proposal are considered to comply with Policies 4 and DM13 subject to the submission of further details for approval. The proposals also comply with the Residential Design Guide.

6.4 Policy DM3 'Subdivision of garden ground' states that the development of a new house within the curtilage of an existing house will be considered favourably where it can be demonstrated that the proposal complies with the following criteria:

- The proposed house is not of a scale and pattern of development that appears cramped, visually obtrusive or be of an appearance which is so out of keeping with the established character that it is harmful to the amenity of the area.
- The proposed house plot and that remaining to the existing house are comparable with those nearby in terms of size, shape, and amenity and the proposal accords with the established pattern of development in the surrounding area.
- The proposed house should have a proper road frontage of comparable size and form to surrounding curtilages unless the proposal reflects the development pattern of the area.
- The proposed vehicular access is of an adequate standard and will not have adverse implications for traffic safety or adversely affect the amenity of adjacent properties by virtue of noise and loss of privacy.
- The garden space allocated for the proposed house and remaining for the existing house should be sufficient for recreational, amenity and drying needs of the occupants.
- The proposed development will not cause an unacceptable reduction in privacy to existing houses and will, itself, enjoy a degree of privacy comparable with surrounding dwellings.
- The proposed development will not overshadow adjacent properties to a degree which results in a significant loss of amenity or itself be significantly affected by overshadowing.
- All existing features such as trees, hedges, walls, fences and buildings that contribute to the character of the area should be retained and should not be adversely affected by the development.
- Adequate parking for both the proposed and existing house must be provided within the site and must not be harmful to the established character and amenity of the area.
- The proposal must not jeopardise or be prejudicial to any further desirable development in the vicinity
- It takes account of any supplementary guidance prepared by the Council, where relevant to the proposal.'

Appropriate parking can be accommodated within the plots. A mixture of existing mature hedging and fencing along boundaries with the existing neighbours will be retained while additional fencing will provide screening, if necessary, and protect privacy for adjoining residents. The plots are proportionate with the donor properties and are commensurate with the average garden sizes near the site and the indicative house footprint demonstrates that a house proportionate to the plot size can be accommodated while ensuring sufficient garden space. If approved, a condition will be added to ensure the dwellings are designed to be in keeping with their surroundings in both scale and design. Roads and Transportation Services have not raised any objections. The design of the detailed house for the lower section of the site is considered to be suitable in terms of scale and design for the plot at this location. Therefore, it is considered that the proposal complies with Policy DM3.

- 6.5 On 29 May 2018, the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. Therefore, the Proposed SLLDP2 is now a material consideration in determining planning applications. The proposed development has been considered against the relevant policies in the proposed

plan and it is noted that these policies are broadly consistent with the current adopted South Lanarkshire Local Development Plan 1. In particular, the site remains within the settlement boundary. It is considered that the proposals accord with Policies 3, 5 and DM3 in the proposed plan.

- 6.6 Objections have been received from local residents who have concerns about road safety and drainage arrangements. In response, the Roads Service is satisfied the proposals accord with guidelines and will not be detrimental to road safety. In addition, the treatment of foul and surface water drainage will be the subject of conditions if consent is granted. In addition, it is noted that a licence has already been granted by SEPA in respect of the new house.
- 6.7 In view of the above, the proposal is an appropriate form of development for the site and complies with local development plan policy. It is, therefore, recommended that Planning Permission should be granted.

7 Reasons for Decision

- 7.1 The proposal complies with Policies 4, 6, DM3 and DM13 of the adopted South Lanarkshire Local Development Plan and the associated Supplementary Guidance. The development is also consistent with the policies of the proposed SLLDP2.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

Date: 30 April 2020

Previous references

- ◆ None

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 11 February 2020
- ▶ Consultations

Roads Development Management Team 28.02.2020

WOSAS 17.02.2020

- ▶ Representations Dated:

Mrs J Beveridge, Forge Cottage, Craigenhill Road, Kilincadzow, Carluke, South Lanarkshire, ML8 4QS	02.03.2020
Mr S Beveridge And Mrs M Beveridge, Smiddy Cottage, Craigenhill Road, Kilincadzow, Carluke, South Lanarkshire, ML8 4QS	02.03.2020
Mrs Morag Smith Russell, Byron, 1 Craigenhill Park Drive, Kilincadzow Carluke, South Lanarkshire, ML8 4SD	03.03.2020
Mr William Russell, Byron, 1 Craigenhill Park Drive, Kilincadzow Carluke, South Lanarkshire, ML8 4SD	02.03.2020 03.03.2020 03.03.2020
Mr William Smith, Greenside, Moor Road, Cartland Lanark, South Lanarkshire, ML11 7RE	02.03.2020 03.03.2020

Contact for further information

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

Steven Boertien, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton,
ML3 6LB

Phone: 01698 455116

Email: steven.boertien@southlanarkshire.gov.uk

Conditions and reasons

01. That further applications shall be submitted to the Council as Planning Authority for the erection of the individual dwellinghouses on the 2 plots hereby approved, together with the requisite detailed plans and such plans shall include:-
- (a) Plans, sections and elevations of the proposed building together with the colour and type of materials to be used externally on walls and roof;
 - (b) Sections through the site, existing and proposed ground levels and finished floor levels;
 - (c) Detailed layout of the site as a whole including, where necessary, provision for car parking, details of access and details of all fences, walls, hedges or other boundary treatments; and,
 - (d) Existing trees to be retained and planting to be carried out within the site; and no work on the site shall be commenced until the permission of the Council as Planning Authority has been granted for the proposals, or such other proposals as may be acceptable.
 - (e) details of proposed foul and surface water drainage for each plot

Reason: To ensure that these matters are given full consideration.

02. That notwithstanding the terms of Condition 1 above, the design and siting of any dwellinghouse on the plots hereby shall take due cognisance of their location, with particular regard being paid to scale, massing, roof pitch, fenestration and materials; and shall be in accordance with the Council's approved policy on new residential.

Reason: To safeguard the visual amenity of the area.

03. That no development shall commence until details of surface water drainage arrangements have been submitted to and approved in writing by the Council as Planning Authority; such drainage arrangements will require to comply with the principles of sustainable urban drainage systems and with the Council's Sustainable Drainage Design Criteria and shall include signed appendices as required. The development shall not be occupied until the surface drainage works have been completed in accordance with the details submitted to and approved by the Council as Planning Authority.

Reason: To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.

04. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works

is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service

Reason: To safeguard any archaeological resources that could be located within the development site.

05. That before any of the new dwellings are occupied the proposed new private access shall be constructed to be a minimum of 5.5m wide and constructed in bound material for the first 10m from Craighenhill Road, and thereafter constructed in gravel and taper down to 4.5m wide with a passing place as shown on the approved plans.

Reason: In the interest of road and pedestrian safety

06. That before the development hereby approved is completed or brought into use, a 2 metre wide footway shall be constructed along the whole frontage of the site to the specification of the Council as Roads and Planning Authority. Design of footpath and access crossing to be submitted to the Roads Service as part of road opening permit application.

Reason: In the interests of public safety.

07. That before any of the new dwellings hereby approved are occupied a hard surface bin collection area shall be provided to the rear of the new footpath large enough to service all four properties accessed off the new private access.

Reason: To ensure waste collection provision is put in place that does not interfere with the public footpath.

08. That before each dwelling house hereby approved is completed or brought into use, 3 no. parking spaces (2.9m x 5.8m modules) per dwelling shall be laid out, constructed and thereafter maintained to the specification of the Council as Roads and Planning Authority.

Reason: To ensure the provision of adequate parking facilities within the site.

09. That before each dwelling hereby approved is completed or brought into use, a turning space shall be provided within the site within or adjacent to that dwelling to enable all vehicles to enter and leave the application site in forward gears at all times.

Reason: In the interests of traffic and public safety.

10. That before the development hereby approved is completed or brought into use, a visibility splay of 2 metres by 35 metres measured from the road channel shall be provided on both sides of the vehicular access and everything exceeding 0.9 metres in height above the road channel level shall be removed from the sight line areas and thereafter nothing exceeding 0.9 metres in height shall be planted, placed or erected within these sight lines.

Reason: In the interests of traffic and public safety.

11. That before any development commences on site or before any materials are ordered or brought to the site, details and samples of all materials to be used as external finishes on the development shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

12. That before development starts, full details of the design and location of all fences and walls, including any retaining walls, to be erected on the site shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

13. That before the first dwelling is completed or brought into use, the surface of new access shall be so trapped and finished in hardstanding as to prevent any surface water or deleterious material from running onto or entering the footpath or road.

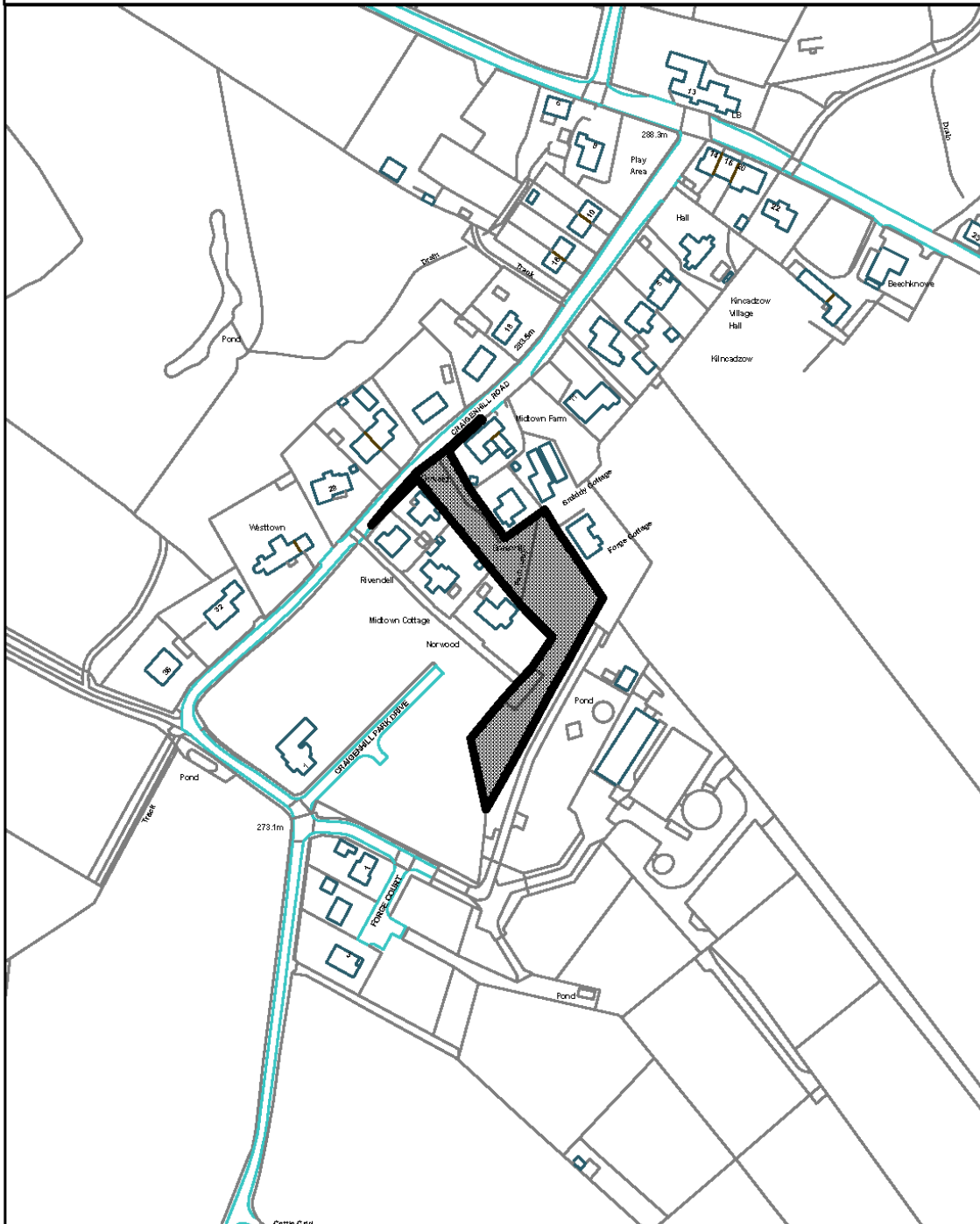
Reason: In the interests of traffic safety and to prevent deleterious material entering the road.

14. That before the dwelling hereby approved is occupied the drainage approval from SEPA shall be installed as per the approved CAR licence

Reason: To ensure appropriate drainage is in place to serve the new dwelling before it is occupied.

P/20/0156

Norwood, Craighenhill Road, Kilncadzow



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Scale:
1:2,500
Date:
27/04/2020



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development

Planning Committee Agenda of 26 May 2020 – Delegated Decisions taken by the Chief Executive, in consultation with Group Leaders

1 Declaration of Interests

No interests were declared.

2 Previous Meeting

Decided: that the delegated decisions taken by the Chief Executive, in consultation with Group Leaders, in relation to the previous agenda of 5 May 2020, be noted as a correct record.

3 Application P/20/0252 for Construction of Park and Ride Facility Including Carriageway Widening, Lighting, Drainage, CCTV and Electric Vehicle Community Charging Hub at Site of Former Rosebank Service Station, Bridge Street, Cambuslang

Decided: that planning application P/20/0252 by South Lanarkshire Council for the construction of a park and ride facility including carriageway widening, lighting, drainage, CCTV and electric vehicle community charging hub at the site of the former Rosebank Service Station, Bridge Street, Cambuslang be granted subject to the conditions specified in the Executive Director's report.

[Reference: Minutes of 27 March 2012 (Paragraph 3)]

4 Application P/19/0969 for Erection of Single Storey Dog Boarding Kennels and Formation of Associated External Dog Walking Area, Landscaping and Car Parking at Crooklands Farm, Haywood Road, Forth

Decided: that planning application P/19/0969 by D and K Munro for the erection of single storey dog boarding kennels and formation of associated external dog walking area, landscaping and car parking at Crooklands Farm, Haywood Road, Forth be granted subject to the conditions specified in the Executive Director's report.

5 Application P/19/1544 for Conversion of Existing Public House to Form One Class 3 (Food and Drink) Unit, One Hot Food Takeaway (Sui Generis) and One Class 1 (Retail) Unit, with Associated Alterations to the Structure of the Building and Formation of New Car Park Access at Burnhill Bar, 18 Chapel Street, Rutherglen

Decided: that consideration of planning application P/19/1544 by N Tariq for the conversion of an existing public house to form one Class 3 (Food and Drink) unit, one hot food takeaway (Sui Generis) and one Class 1 (Retail) unit, with associated alterations to the structure of the building and formation of new car park access at Burnhill Bar, 18 Chapel Street, Rutherglen be deferred to a later date.

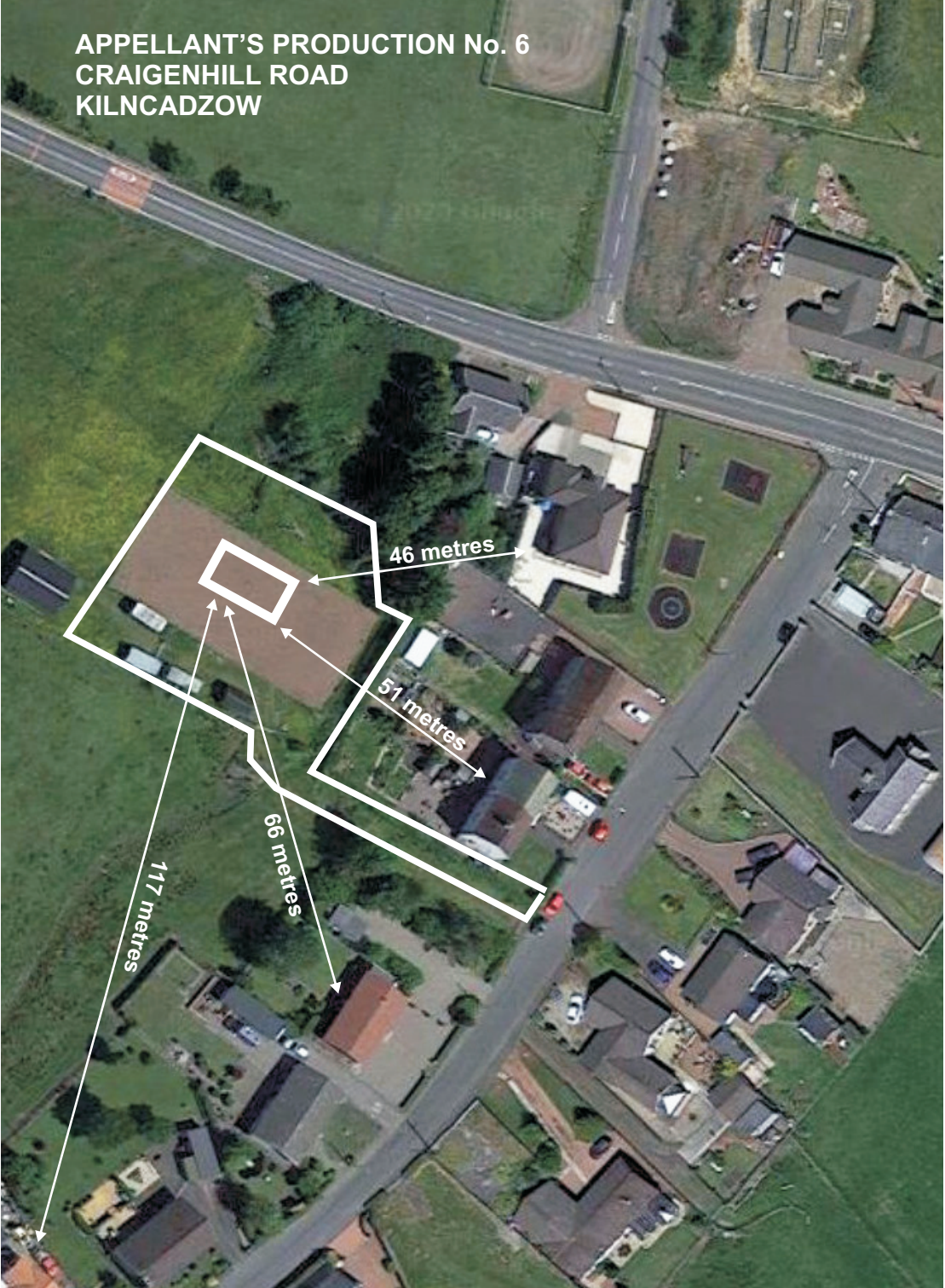
6 Application P/20/0156 for Erection of Single Storey House with Attic Accommodation, Formation of Two House Plots and Re-siting of Existing Access at Norwood, Craigenhill Road, Kilncadzow

Decided: that planning application P/20/0156 by G and G Whitefield for the erection of a single storey house with attic accommodation, formation of two house plots and re-siting of the existing access at Norwood, Craigenhill Road, Kilncadzow be granted subject to the conditions specified in the Executive Director's report.

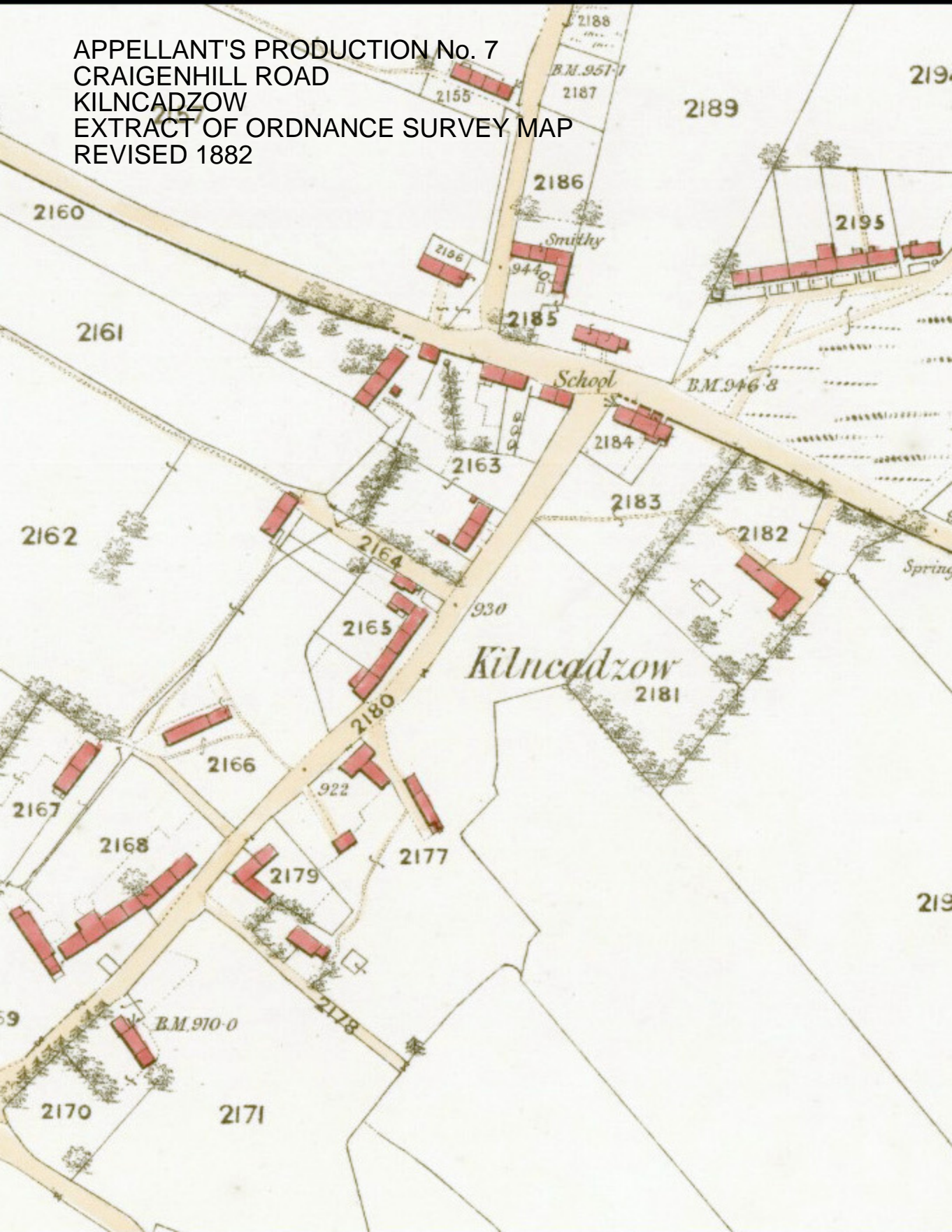
7 Urgent Business

There were no items of urgent business.

APPELLANT'S PRODUCTION No. 6
CRAIGENHILL ROAD
KILNCADZOW



APPELLANT'S PRODUCTION No. 7
CRAIGENHILL ROAD
KILNCADZOW
EXTRACT OF ORDNANCE SURVEY MAP
REVISED 1882



	<h1>Report</h1>	Agenda Item
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Report to: **Planning Committee**
Date of Meeting: **9 July 2013**
Report by: **Executive Director (Community and Enterprise Resources)**

Application No CL/12/0421
Planning Proposal: Formation of 5 House Plots and Associated Infrastructure, Alterations and Extension to Access Road, Erection of Two Commercial Stable Blocks, Fencing and Ménage Area With an Associated Change of Use of Agricultural Land to Equestrian Use.

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Mr Sandy Beveridge
- Location : Smiddy Cottage
Craighenhill Road
Kilncadzow
ML8 4QS

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 the application
- (2) If Committee is minded to grant consent, the decision notice should be withheld until a Planning Obligation under Section 75 of the Planning Act or another appropriate legal agreement is concluded which should cover such matters as:
- a) The phasing of the development

- b) To ensure the funding that is released by the consent for the housing development is used to establish the new business

All costs associated with the legal agreement including the Council's reasonably incurred costs, shall be borne by the applicant.

3 Other Information

- ◆ Applicant's Agent: Burrell Design Studio
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (adopted 2009)**
Policy STRAT4: Accessible Rural Area
Policy CRE1: Housing in the Countryside
Policy CRE2: Stimulating the Rural Economy
Policy ECON6: Rural and Farm Diversification
Policy DM1: Development Management
Policy ENV11: Design Quality
Policy ENV34 Development in the Countryside

Proposed South Lanarkshire Local Development Plan (Finalised Draft 2013)
Policy 2: Climate Change
Policy 3: Green Belt and Rural Area
Policy 4: Development Management and Place Making
Policy 7: Employment
Policy 11: Economic Recovery and Regeneration

Supplementary Guidance: Development Management, Placemaking and Design (Draft 2013)

- ◆ Representation(s):
 - ▶ 3 Objection Letters
 - ▶ 1 Support Letter
 - ▶ 0 Comments Letter

- ◆ Consultation(s):

West of Scotland Archaeology Service

Roads and Transportation Services (Clydesdale Area)

Environmental Services

Planning Application Report

1 Application Site

- 1.1 The application site consists of land at Craigenhill Road on the southern edge of Kilncadzow village. The site is currently served by a private access which also serves the applicants own dwellinghouse and farrier business which are located within the settlement to the north of the site. Part of the site adjoins the settlement on its eastern boundary and is bounded in other directions by agricultural land. The land is generally flat in nature, rising gently from south to north. A small agricultural storage shed is situated within the northern part of the site. The applicant also owns a field extending to 4.7ha which adjoins the site.

2 Proposal(s)

- 2.1 The applicant seeks detailed planning permission for a mixed use development consisting of the following:

Livery stables and exercise area

The applicant proposes to erect two stable blocks, an outdoor school area, access road and parking to the east of the existing agricultural storage shed. The proposed livery business will have space to accommodate 8 horses. The new stables will be steel framed portal sheds with a pitched roof finished in green metal profile cladding to match the adjacent shed. Internally each building will be laid out in blockwork to form 4 stables and a circulation/tack area. The applicant intends to provide an up-market livery service with schooling facilities to complement his existing farrier/blacksmith business.

Formation of 5 residential building plots

The applicant proposes to create 5 residential house plots on the southern part of the site with access from the existing private access. The five plots are to be arranged around a small private cul-de-sac with three plots orientated with their front elevations to the main road (Craigenhill Road) and the other two sitting to the rear. An area in the lower south east corner has been identified for SUDS and foul water treatment.

Access Arrangements

Each of the elements of the mixed use proposal would be served by the existing private access road which runs through the site and which would be upgraded.

- 2.2 The applicant has operated his farrier/blacksmith business from the village for the past 22 years. He has submitted a business plan in support of his application and considers that the proposed business would be a logical diversification to his existing smiddy and provide additional financial stability in the current economic climate. He envisages employing two part time stable hands to run the business.

The revenue generated from the proposed houses would be used as capital to aid the setting up of the business.

3 Background

3.1 Local Plan Background

3.1.1 The application site is located within the Accessible Rural Area where Policy STRAT4: Accessible Rural Area of the adopted South Lanarkshire Local Plan applies. Policy CRE1: Housing in the Countryside, Policy CRE2: Stimulating the Rural Economy, Policy ECON6: Rural and Farm Diversification, Policy DM1: Development Management, Policy ENV11: Design Quality and Policy ENV34 Development in the Countryside are also relevant.

3.1.2 The Proposed South Lanarkshire Local Development Plan (SLLDP) and associated Supplementary Guidance was approved by Planning committee on 16th April 2013. Therefore the proposed SLLDP and Supplementary Guidance (SG) are now a material consideration when determining planning applications. The proposed development has been considered against the relevant policies in the plan and its appropriate SG, where available, and it is noted that these policies are broadly consistent with the current local plan. Policy 2: Climate Change, Policy 3: Green Belt and Rural Area, Policy 4: Development Management and Place Making, Policy 7: Employment and Policy 11: Economic Recovery and Regeneration in the Proposed Plan and the SG on Development Management Place Making & Design are relevant.

3.2 Government Advice/Policy

3.2.1 Scottish Planning Policy (SPP) encourages a flexible approach to ensure that changing circumstances can be accommodated and new economic opportunities realised. It states that the planning system should support economic development in all areas by supporting development which will provide new employment opportunities and enhance local competitiveness and promote the integration of employment generation opportunities with supporting infrastructure and housing development. It further advises that Planning Authorities should ensure that new development safeguards and enhances an area's environmental enhancement and regeneration. It notes that previously developed land is a potential source of sites for new development and planning authorities should support and promote proposals to bring vacant or derelict land back into productive use for development or to create more attractive environments.

3.2.2 In terms of rural development, the guidance states that 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 and new build housing which is linked to rural businesses or would support the formation of new businesses by providing funding. 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. The guidance explains that

different landscapes will have a different capacity to accommodate new development, and the siting and design of development should be informed by local landscape character.

3.3 Planning Background

3.3.1 None

4 Consultations

4.1 **Environmental Services** – offer no objections subject to a condition relating to dung stead/waste storage & handling arrangements.

Response: Noted. A relevant condition can be attached should consent be granted.

4.2 **Roads & Transportation Services (South Division)** – offer no objections subject to conditions and advice notes regarding access, parking, turning facilities, road opening permits and drainage.

Response: Noted. Relevant conditions and informatives can be attached should consent be granted.

4.3 **West of Scotland Archaeology Service** – state that the site falls within an area of archaeological sensitivity. They offer no objection to the proposal and recommend a condition be attached to any consent granted to ensure the developer secures the implementation of a programme of archaeological works.

Response: Noted. A condition can be attached should consent be granted.

5 Representation(s)

5.1 Following the carrying out of statutory neighbour notification and advertisement of the proposal in the local press as Development Contrary to the Development Plan and non-notification of neighbours, 3 letters of objection and one letter in support of the application were received. The content of these letters is summarised as follows:

(a) **The residential development is out with the settlement boundary and therefore contrary to the current development plan.**

Response: The proposed residential development is contrary to the adopted South Lanarkshire Local Plan. However for the reasons detailed in the report below, the Council considers in this case a small scale residential development on the edge of the village boundary is an acceptable departure from the local plan.

(b) **The establishment of a commercial business and the increase in traffic will be unsuitable for the road system in the area resulting in road and pedestrian safety issues, traffic disruption, excessive noise and pollution.**

Response: The location of the livery business is acceptable in this rural location and would be of a scale compatible with the character of the area. The traffic generated is not expected to be detrimental to other road users while Roads and Transportation Services have raised no issues with road safety.

- (c) **The introduction of a commercial business will be detrimental to the local amenity due to the increased noise, smell and other associated factors arising from the operation of a livery business.**

Response: The location and scale of the proposed business in the rural area is considered acceptable. The nearest residential property would be 65m from the stable blocks and 90m to the outdoor school area and therefore no amenity issues are envisaged. A condition will be attached if consent is granted to ensure details of the proposed dung stead/waste storage & handling arrangements are submitted and approved prior to any work starting on site

- (d) **Concerns about how the site will be served by suitable drainage both in terms of sewage disposal, waste from the equestrian use and surface water.**

Response: Should consent be granted suspensive conditions would be attached to ensure details of the proposed drainage and waste disposal systems are submitted and approved prior to any work starting on site.

- (e) **The current application if approved will lead to further development pressures in the future.**

Response: Each application is considered on its own merits based on the current local plan and government policy. Any further applications and justifications submitted in this area in the future would therefore be assessed separately at that time.

- (f) **There is a demand for a small livery yard of this quality in this area. The current roads are already utilised and support an existing farming community, therefore the roads will be more than capable of coping with the additional transport. As a resident of Craighill Road there is a private equestrian property adjacent to my own residence I am not aware of any issues with the smell from horses.**

Response: Noted.

- 5.2 These letters have been copied and made available in the usual manner and on the Planning Portal.

6 Assessment and Conclusions

- 6.1 The applicant seeks planning permission for a mixed use development comprising an equestrian livery business and the formation of 5 house plots at Smiddy

Cottage, Kilncadzow. The determining issues which require to be taken into account in the assessment of this application are compliance with local plan policy, government guidance and its impact on the residential and rural amenity of the area.

- 6.2 The site is located outwith the settlement of Kilncadzow and within the Accessible Rural Area where Policy STRAT4: Accessible Rural Area of the adopted South Lanarkshire Local Plan applies. This policy states the local plan strategy will be to build on the economic potential of the area's high quality natural and built environment and tourism potential and to ensure these qualities are not eroded. It further advises that new build development which is unrelated to the re-use of traditional buildings will only be permitted on gap sites within existing building groups. Any housing development within the Accessible Rural Area should conform to Policy CRE1: Housing in the Countryside and business proposals should conform to Policy CRE2: Stimulating the Rural Economy. Policy ECON6 : Rural and Farm Diversification is also relevant which states that the Council will support proposals for economic diversification in rural areas and farm diversification where these activities facilitate employment creation and meet the detailed criteria set out in Policy CRE2. It further advises that diversification proposals involving new housing development shall not generally be supported.
- 6.3 The business element of the proposal which consists of the proposed livery stables and outdoor school area requires to be assessed against Policy CRE2. This policy states that in the rural area, the Council will initially seek to direct business proposals to sites within existing settlements, however the policy goes on to state that the Council will endeavour to maximise job creation in rural areas outwith established settlements by encouraging agricultural developments or appropriate uses in the rural areas and the re-use of existing redundant rural buildings. Equestrian related uses are generally considered acceptable in the countryside and in this case a locational need has been demonstrated in that it would be linked to the applicants existing related business. The livery business is proposed to diversify this business on site and provide an alternative income stream for the applicant. The proposal respects the countryside and residential amenity of the area and the new buildings would be of a suitable design a sufficient distance from the nearest houses. In addition, there are no infrastructure issues. I am therefore satisfied that the business element of the proposal complies with Policies STRAT4, CRE2 and ECON6.
- 6.4 The applicant proposes the creation of 5 residential building plots on the remainder of the site. The proposal does not conform with the strategy set out in Policy STRAT4 as they are not necessary for the furtherance of agriculture, horticulture, forestry or recreation and they do not constitute rehabilitation of existing buildings, nor a gap site within an existing building group. Policy CRE1 sets out the exceptional circumstances where new houses will be acceptable and includes agricultural dwellings, houses in association with existing or proposed businesses, the conversion of existing buildings or replacement houses. None of these

circumstances apply and therefore the proposal cannot be justified under Policy CRE1. In view of this the proposal does not comply with Policy STRAT 4.

- 6.5 In assessing this application it is important to refer to Government guidance, which has been summarised under section 3.2 of this report. The recently published SPP document emphasises the importance of the planning system being flexible and supportive of economic opportunities. The guidance states that 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 and new build housing which is linked to rural businesses or would support the formation of new businesses by providing funding. It stresses however that 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. In this case, the applicant has explained the capital raised from the sale of the plots would contribute towards the costs involved in setting up the proposed business. He has submitted a business plan and financial justification for the requirement of the 5 building plots in order to achieve the proposed high quality livery business and required access improvements. The submission shows that the business development is not financially viable if the full cost would have to be financed through conventional ways and the sale of the proposed plots bridges the funding gap. The business plan goes on to show that the enterprise has been planned on a sound financial basis and that it is viable in the long term. The applicant has advised that he is prepared to accept the imposition of restrictions regarding the release of the plots until there is evidence of expenditure on the livery business.
- 6.6 The layout of the proposed plots and their relationship to the existing settlement is considered acceptable for the location while the house designs will be controlled by condition to ensure the new houses are appropriate for the rural location. The SPP states that Councils should support the development of new-build housing to support the formation of new businesses, and the development is well designed and located I consider that the principle of this element of the proposal is acceptable and an exception to local plan policy can be justified.
- 6.7 Policy ENV34: Development in the Countryside is also relevant. This policy states that development will be permitted where it complies with Policy STRAT4 and it can be demonstrated to the Council's satisfaction that the development conserves the natural environment and avoids significant adverse impacts on biodiversity and natural heritage resources; respects the existing landscape form with new buildings and structures being designed to complement and enhance the surrounding landscape, retains trees, woodland and boundary features, avoids dominating or adversely interfering with existing views in and out of the site, avoids the introduction of suburban-style developments into the rural environment and avoids the use of inappropriate urban features such as kerbs, pavements and high levels of external lighting, concrete and artificial building products.

- 6.8 Elements of the development do not comply with Policy STRAT4 so the proposal does not strictly comply with Policy ENV34, however there is still merit in assessing it against the criteria in this policy. The proposed livery business is set back from the main road and from residential dwellings in the village. The proposed layout and building design of the stables and outdoor school area integrate well with the existing development on site and represent a compact development with low impact on the rural amenity. The site of the proposed residential plots is situated on the edge of the existing village settlement boundary and is considered to adequately integrate with the existing development pattern of the village. Generally, the design of the proposal is acceptable and I therefore consider that it is not at odds with the criteria contained under Policy ENV34.
- 6.9 Policy DM1: Development Management also applies and this policy states that all planning applications will require to take account of the local context and built form and should be compatible with adjacent buildings and surrounding areas in terms of scale, massing, design, external materials and impact on amenity. In addition the policy states that the proposal should provide suitable access, parking and have no adverse implications for public safety and should make appropriate infrastructure provision to serve the development. As stated above the scale and layout of the various aspects of the proposal is acceptable, while the house design and use of materials would be addressed at the further detailed stage. There are no roads or infrastructure issues.
- 6.10 The Proposed South Lanarkshire Local Development Plan (SLLDP) and associated Supplementary Guidance was approved by Planning committee on 16th April 2013. Therefore the proposed SLLDP and Supplementary Guidance (SG) are now a material consideration when determining planning applications. The proposed development has been considered against the relevant policies in the plan and its appropriate SG, where available, and it is noted that these policies are broadly consistent with the current local plan. It is considered that the proposal accords with Policies 2 Climate Change, 3 Green Belt and Rural Area, 4 Development Management & Place Making, Policy 7: Employment, and Policy 11: Economic Recovery and Regeneration in the proposed Plan.
- 6.11 To conclude, the business element of the proposal complies with local plan policy. The formation of the 5 building plots to facilitate the business venture is contrary to local plan policy, however the focus of recent Government guidance is supportive and flexible in allowing new build housing which is linked to rural businesses or would support the formation of new businesses by providing funding. A Section 75 Obligation will be entered into between the applicant and the Council to control the phasing of the overall development and ensure that the funding obtained from the plots will fund the new business. In view of this a departure from the local plan can be justified for the following reasons:
- (i) The proposal accords with SPP which supports opportunities for small scale housing development in rural areas, including new build housing which is

linked to rural businesses and would support the formation of new businesses by providing funding. The viability of the business has been demonstrated in this case.

- (ii) The development will not have a detrimental impact on the rural or residential amenity of the area while the proposal will consolidate the existing uses with the addition of appropriately designed and located structures.
- (iii) There are no infrastructure issues and there would be no adverse impact on road safety

It is therefore recommend that planning consent be granted.

7. Reasons for Decision

7.1 For the reasons set out in 6.11 above.

Colin McDowall

Executive Director (Community and Enterprise Resources)

1 July 2013

Previous References

- ◆ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Plan 2009 (adopted)
- ▶ The Proposed South Lanarkshire Local Development Plan (SLLDP) and associated Supplementary Guidance
- ▶ Neighbour notification letter dated 28/09/2012
- ▶ Consultations
 - West of Scotland Archaeology Service 22/10/2012
 - Environmental Services [e-consult] 23/10/2012
 - Roads and Transportation Services (Clydesdale Area) 05/11/2012

► Representations

Representation from : Mr and Mrs G Whitefield , Norwood Cottage, Kilncadzow, Carluke, ML8 4QT, DATED 18/10/2012 09:33:55

Representation from : Lovell, 36 Craighenhill Road, Kilncadzow, Carluke, DATED 17/10/2012 21:48:38

Representation from : Mr C Webster , Altyre, 28 craighenhill rd, Kilncadzow, Carluke, DATED 16/10/2012 20:50:32

Representation from : Diane Mutumha, 16 Craighenhill Road, Kilncadzow, Carluke, ML8 4QT, DATED 24/10/2012

Contact for Further Information

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

Steven Boertien, Planning Officer, Council Offices, South Vennel, Lanark, ML11 7JT
Ext (Tel: 01555 673266)
E-mail: planning@southlanarkshire.gov.uk

Detailed Planning Application

PAPER APART – APPLICATION NUMBER : CL/12/0421

CONDITIONS

- 1 Details of the phasing of the development shall be submitted to the Council for approval, and no work shall begin until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.
- 2 That further applications shall be submitted to the Council as Planning Authority for the erection of individual dwellinghouses on the plots hereby approved, together with the requisite detailed plans and such plans shall include:-(a) Plans, sections and elevations of the proposed building together with the colour and type of materials to be used externally on walls and roof;(b) Sections through the site, existing and proposed ground levels and finished floor levels;(c) Detailed layout of the residential site as a whole including, where necessary, provision for car parking, details of access and details of all fences, walls, hedges or other boundary treatments; and,(d) Existing trees to be retained and planting to be carried out within the site; and no work on the site shall be commenced until the permission of the Council as Planning Authority has been granted for the proposals, or such other proposals as may be acceptable.
- 3 That the landscaping scheme as shown on the approved plan shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following completion of the improvements to the access road, and shall thereafter be maintained and replaced where necessary to the satisfaction of the Council.
- 4 That no development shall commence until details of surface water drainage arrangements have been submitted to and approved in writing by the Council as Planning Authority; such drainage arrangements will require to comply with the principles of sustainable urban drainage systems and with the Council's Sustainable Drainage Design Criteria and requirements.
- 5 That before any house plot hereby approved is occupied a septic tank and soakaway/reedbed system for all the plots shall be designed and constructed in accordance with current SEPA regulations.
- 6 That before development on the stables hereby approved is started, details of the location of the dung stead/waste storage & the handling arrangements arising from the livery business shall be submitted to and approved by the Council as Planning Authority. The storage and waste handling scheme shall be implemented before the development is brought into use and shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

- 7 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 8 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.
- 9 That before any of the development hereby approved is completed or brought into use, the vehicular access shall be upgraded in accordance with the specification of the Council as Roads and Planning Authority. The access should be a minimum of 5.5m wide with a heel kerb to be laid flush to the rear of the 2m verg to delineate edge of public road, the first 10 metres to be surfaced from the edge of the public road.
- 10 That before any of the residential units hereby approved are completed or brought into use, a 2 metre wide footway shall be constructed to replace the existing road verge along the length of Craigenhill Road marked in green on the approved plans to the specification of the Council as Roads and Planning Authority.
- 11 That before the development hereby approved is completed or brought into use a 2.5 metre wide grass verge shall be provided along the frontage of the residential building plots to the satisfaction of the Council as Roads and Planning Authority.
- 12 That before the stables hereby approved are completed or brought into use, all of the parking spaces shown on the approved plans shall be laid out, constructed and thereafter maintained to the specification of the Council as Roads and Planning Authority.
- 13 That before any part of the development hereby approved is completed or brought into use that a drainage system capable of preventing any water from flowing onto the public/access road or into the site from surrounding land to be provided & maintained by the developer.

REASONS

- 1.1 In order to retain effective planning control
- 2.1 These details have not been submitted or approved.
- 3.1 In the interests of amenity.
- 4.1 To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.
- 5.1 To ensure the provision of a satisfactory sewerage system
- 6.1 To minimise nuisance, littering and pest problems to nearby occupants.
- 7.1 In the interests of amenity and in order to retain effective planning control.
- 8.1 In order to safeguard any archaeological items of interest or finds.
- 9.1 In the interest of public safety
- 10.1 In the interest of public safety
- 11.1 In the interest of public safety
- 12.1 To ensure the provision of adequate parking facilities within the site.
- 13.1 To ensure the provision of a satisfactory land drainage system.

CL/12/0421

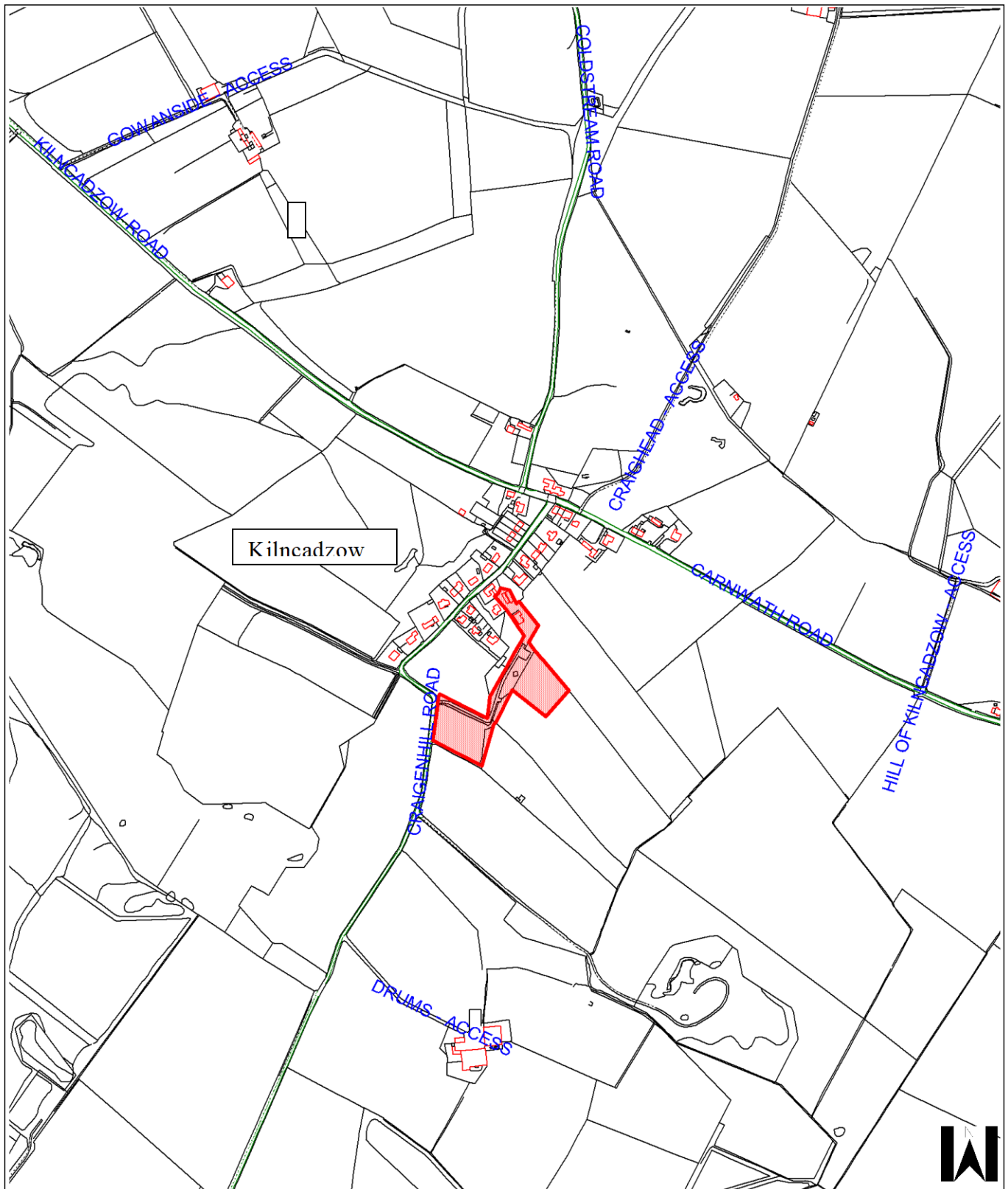
Smiddy Cottage, Craigenhill Road, Kilncadzow, ML8 4QS

Planning and Building Standards

Scale: 1: 10000

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	Delegated Report	Reference no.	P/19/1861
		Date	14 February 2020

Planning proposal: Residential development (Permission in Principle)

Location: Land 65M Northwest Of 16 Craigenhill Road
Craigenhill Road
Kilncadzow
Carluke
South Lanarkshire

Application Type : Permission in principle

Applicant : Mr Andrew Blair

Location : Land 65M Northwest Of 16 Craigenhill Road
Craigenhill Road
Kilncadzow
Carluke
South Lanarkshire

Decision: Application refused

Report by: Area Manager (Planning & Building Standards)

Policy reference:

South Lanarkshire Local Development Plan

Policy 2: Climate change
Policy 3: Green belt and rural area
Policy 4: Development management and placemaking

Supplementary Guidance 2: Green Belt and Rural Area

Policy GBRA4: Small scale settlement extensions

Proposed South Lanarkshire Local Development Plan 2

Policy 2: Climate change
Policy 4: Green Belt and Rural Area
Policy 5: Development management and placemaking
Policy GBRA7: Small Scale Settlement Extensions

Assessment

Impact on privacy?	No
Impact on sunlight/daylight?	No
Impact on amenity?	No

Traffic issues?	No
Adheres to development plan policy?	No
Adverse comments from consultees?	No

**Consultations
Environmental Services**

Summary of response

Have no objections to the proposal subject to conditions relating to storage and collection of refuse within the development site.

Response: Appropriate conditions would be attached to the consent if planning permission is granted.

**Roads Development Management
Team**

Have no objections to the proposal subject to conditions relating to visibility splays and site access gates.

Response: Appropriate conditions would be attached to the consent if planning permission is granted.

Representation(s):

▶	14	Objection letters
▶	1	Support letter
▶	0	Comment letters

Planning Application Delegated Report

1 Application Summary

- 1.1 The application relates to ground used as an equestrian arena which is located to the rear/side of existing residential properties outwith Kilncadzow's village settlement boundary. The application site is bounded to the north by residential property, overgrown rough grassed area/cluster of pine trees; to the east by residential properties/public road and to the south and west by disused stable blocks/agricultural land.

2 Proposal

- 2.1 The applicant seeks planning permission in principle for residential development. The proposed development would use the existing single track private access off a public road (Craigenhill Road) to serve the site.

3 Background

3.1 Local Development Plan

- 3.1.1 The application site is identified as being within the Rural Area in the South Lanarkshire Local Development Plan. Policy 3 – Green Belt and Rural Area of the South Lanarkshire Local Development Plan seeks to resist any developments detrimental to the amenity of such areas. Other relevant policies include: Policy 2: Climate Change, Policy 4 – Development management and placemaking and associated Supplementary Guidance on Green Belt and Rural Area (Policy GBRA 4 – Small scale settlement extensions) is also relevant.

- 3.1.2 The application site is also identified as being within the rural area in the approved Proposed South Lanarkshire Local Development Plan 2. Policy 4 – Green Belt and Rural Area of the Proposed Plan seeks to resist any developments detrimental to the amenity of such areas. Other relevant policies include Policy 2 – Climate Change, Policy 5 – Development Management and Placemaking and Policy GBRA7 – Small scale settlement extensions of the approved Proposed South Lanarkshire Local Development Plan 2.

3.2 National Policy Advice and Guidance

- 3.2.1 The Scottish Planning Policy document consolidates and updates previous Scottish Government advice, containing a section on promoting rural development. This document states that the planning system should in all rural and island areas promote a pattern of development that is appropriate to the character of the particular area and the challenges it faces, and encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality. It also states that development plans should set out a spatial strategy which makes provision for housing in rural areas in accordance with the spatial strategy, taking account of the different development needs of local communities.

3.3 Planning History

- 3.3.1 The site has had the benefit of a detailed planning permission for the erection of stables and riding arena, application no: CL/07/0755 granted on 28 November 2007.
- 3.3.2 The site has had a planning application in principle for residential development application no: CL/16/0435, refused on 11 January 2017. The applicant appealed to the Council's Planning Local Review Body to review the decision to refuse planning application. The Review Body upheld the decision to refuse planning permission on 19 June 2017 Reference No: NOR/CL/17/001 dated 10 July 2017.

4 Representation(s)

- 4.1 Following the carrying out of statutory neighbour notification and the advertisement of the application in the local press as Development Contrary to the Development Plan, 14 letters of objections and 1 letter of support have been received. The grounds of objections are summarised below:

- a) **The objectors are concerned that the proposal is outwith the Council's designated settlement boundary of Kilncadzow Village but in the rural area.**

Response: The application site is located outwith Kilncadzow's designated village settlement boundary hence the advertisement of the application in the local press as Development Contrary to the Development Plan.

- b) **There are concerns that the single dirt track off Craighenhill Road is not suitable for road vehicles and is also dangerous for pedestrians due to the absence of a pavement. Furthermore, the access to the site is obstructed by neighbouring property's mature trees and parked vehicles on the roadside causing a road safety issue for entering/exiting the site.**

Response: The Council's Roads and Transportation Services have no objections to the use of the existing access to serve the proposed development.

- c) **There are concerns that if the development went ahead, it would lead to increased traffic generation to and from the site during the construction period**

and a dramatic increase in noise and disturbance associated with the proposed development to neighbouring properties.

Response: The traffic that would be generated in close proximity to the application site during the construction phase of the development would be of a temporary nature and the Council's Roads Services **have no objections to the proposal.** Any issues regarding noise nuisance and disturbance associated with the proposed development would be dealt by the Council's Environmental Services.

- d) **There are concerns about the drainage and sewage arrangements for the proposed plan, as there are current issues with the existing soakaways for the other houses (10 – 16 Craighill Road) adjacent to the application site. There is also an identified vermin problem originating from the said area that Environmental Health Services are aware of. Any additional developments will only add to this problem. The use of the existing access track to the stables as an access to the proposed development would have an adverse impact on the sewage drainage and the flow of the burn that runs through the access route, potentially leading to flooding and contamination to neighbouring property..**

Response: The applicant would be required to carry out a Flood Risk Assessment to establish the flood risk to both the proposed development and adjacent properties if planning permission is granted. The Council's Environmental Services would deal with any vermin problem arising from the proposed development. In the event of permission being granted, details of foul drainage arrangements would require to be submitted and agreed with Scottish Water and SEPA.

- e) **Concerns that the proposed development would lead to overshadowing, overlooking of the neighbouring properties or loss of privacy.**

Response: These are issues which would be considered as part of any detailed planning application in the event of permission being granted for the principle of residential development of the site.

- f) **Concerns about loss of views of the surrounding countryside.**

Response: The loss of views is not a material planning consideration in the determination of the application. However, **it is not considered that this small scale proposal would adversely affect the landscape character of the area.**

- g) **The objectors feel that Kilncadzow Village doesn't require further developments, there has been no uptake of the serviced plots just further down Craighill Road despite being on the property market for over a decade.**

Response: While this has no material bearing on the current proposal, it is noted that 7 out of the 13 house plots granted planning permissions have now been built and are occupied.

- h) **Concerns that the proposal would constitute backland development. This would change the character and landscape setting of the surrounding area.**

Response: The application site is located to the rear of properties fronting onto Craighill Road and A721, Carnwath Road respectively and **by definition it would constitute backland development which would significantly adversely impact on the residential amenity of neighbouring properties.**

- i) **The objectors question the accuracy of part of the information filled in the application form which states that there are no trees on or adjacent to the application site.**

Response: It is evident that there are trees adjacent to the north of the application site.

- j) **There are concerns that the applicant's intention to use a septic tank on the application site is not consistent with the previous application in the area. Septic tanks require to discharge and there is no current soakaway due to the impermeable clay; this can be seen in the extent of waterlogging and stagnant water on the site. No authorisation will be given to discharge into the neighbouring property.**

Response: Any issues relating to use of septic tank/soakaway and drainage associated with the proposal and its impact on the neighbouring properties would be dealt with by the Council's Building Standards Service. It is considered that the issue relating to authorisation to discharge into a neighbouring property's ground is a private legal matter and an issue for the two land-owners to negotiate and agree on prior to any future development on the site.

- k) **Concerns that pollution and contamination of the watercourse from this site would adversely impact on nature conservation, wildlife and farm animals of the neighbouring property.**

Response: Any issues relating to pollution and contamination of the watercourse and its impacts on nature conservation, wildlife and farm animals of the neighbouring land would be dealt with by SEPA and the Council's Environmental Services.

A letter of support for the proposed development has also been received. The representee has no objection or issues with the erection of a further development within the village where there are several other properties being erected. They are of the view that the proposal can only enhance the village which is already a very desirable area to live.

5 Assessment and Conclusions

- 5.1 The applicant seeks planning permission in principle for residential development on the site, located outwith the designated settlement boundary of Kilncadzow village. The determining issues in consideration of this application are its compliance with adopted local development plan policy and associated supplementary guidance, the impact on both the residential and visual amenity of the surrounding area, the road safety implications of the proposal, relevant government advice and policy and other material considerations in the determination of the application.
- 5.2 The Scottish Planning Policy (SPP) document consolidates and updates previous Scottish Government advice and contains a section on promoting rural development. This document states that the planning system should in all rural and island areas promote a pattern of development that is appropriate to the character of the particular area and the challenges it faces, and encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality. It also states that development plans should set out a spatial strategy which makes provision for housing in rural areas in accordance with the spatial strategy, taking account of the different development needs of local communities. In this instance the proposal relates to a small scale settlement extension and is not considered to be consistent with the SPP.
- 5.3 The application site lies within the rural area and is subject to assessment against Policy 3 - Green Belt and Rural Area of the adopted South Lanarkshire Local Development Plan. This states that development which does not require to be located in the countryside will be expected to be included within a settlement boundary. This policy further states that limited expansion of an existing settlement in the rural area may be appropriate where the proposal is proportionate to the scale and built form of the settlement, supportive of the sustainability of the settlement and a defensible settlement boundary is maintained.

Policy GBRA4 – Small scale settlement extensions as contained in the Green Belt and Rural Area Supplementary Guidance states that proposals for new houses on sites adjoining existing settlements will be required to meet the following criteria:

- The development shall maintain a defensible settlement boundary through the retention of existing features or enhancement through additional structural planting.
- The proposals should respect the specific local character and the existing pattern of development within the settlement and be of an appropriate small scale that is proportionate to the size and scale of the existing settlement.
- Development of the site should have no adverse impact on the amenity of any existing dwellinghouses within the settlement, particularly in terms of overlooking, privacy or overshadowing.
- Proposals should incorporate substantial boundary landscaping proposals, to minimise the developments impact on rural amenity and ensure appropriate landscape fit.
- Proposals should be able to be readily served by all necessary infrastructure including water, sewerage and electricity and be able to comply with all required parking and access standards.
- Proposals should have no adverse impact in terms of road safety.
- Proposals should have no adverse impact on biodiversity, including Natura 2000 sites and protected species, or features which make a significant contribution to the cultural and historic landscape value of the area.

5.4 The proposal seeks consent for residential development of a former riding arena which is located outwith Kilncadzow's settlement boundary at the rear garden grounds of residential properties to the north and east. The application site has a backdrop of woodland to the north but is open to views from the south, east and west. It is considered that the proposed development would constitute backland development, would not lead to a rounding off of that part of the settlement boundary nor respect the specific local character and the existing pattern of development within the settlement which is linear in nature. It would also fail to satisfactorily relate to existing properties located to the north and east. The current status of the site as an equestrian facility is not justification to make an exception in this case as the condition of the land does not have an adverse environmental impact. The proposal fails to comply with Policies 3 and GBRA 4 of the current Local Development Plan.

5.5 Policy 2 – Climate Change states that proposals for new development must, where possible, seek to minimise and mitigate against the effects of climate change by being sustainably located and having no significant adverse impacts on the water and soils environment. The application site is not located within any flood risk area and the provision of any form of drainage system on the site would not significantly adversely impact on the water and soils environment of the surrounding area. The proposal therefore complies with Policy 2 of the current Local Development Plan.

5.6 Policy 4 - Development management and placemaking states that all development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community. As stated in 5.4 above, the proposal would result in a development that would not take account of and integrate well with the local context and built form in the area and would therefore have significant adverse impacts on the local community and environment of the surrounding area. The proposal also fails to comply with Policy 4 of the current Local Development Plan.

5.7 On 29th May 2018 the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. Therefore the Proposed SLLDP2 is now a material consideration in

determining planning applications. The proposed development has been considered against the relevant policies in the proposed plan and it is noted that these policies are broadly consistent with the current adopted South Lanarkshire Local Development Plan. It is considered that the proposal does not accord with Policy 4 – Green Belt, Policy 5 – Development management and placemaking and Rural Area and Policy GBRA7 – Small scale settlement extensions in the Proposed plan.

- 5.8 In view of the above, it is concluded that the proposal does not comply with any of the policy criteria contained within either Policy 3 – Green Belt and Rural Area of the adopted South Lanarkshire Local Development Plan, Policy 4 – Development management and placemaking, or Policy GBRA4 of the Green Belt and Rural Area SG that would allow for small scale settlement extensions to existing settlements within the rural area. Furthermore, the proposal does not accord with Policy 4 – Green Belt and Rural Area, Policy 5 – Development management and placemaking and Policy GBRA7 – Small scale settlement extensions of the approved Proposed South Lanarkshire Local Development Plan 2. It is therefore recommended that permission is refused.

6 Reason for decision

- 6.1 The proposed development does not comply with the requirements of Policy 3 of the South Lanarkshire Local Development Plan (2015), Policy 4 and Policy GBRA4 of the Supplementary Guidance on Green Belt and Rural Area. The application is also contrary to Policy 4, Policy 5 and Policy GBRA7 of the proposed SLLDP2.

Delegating officer:

Date:

Previous references

- ◆ None

List of background papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 19.12.2019

▶ Consultations

Environmental Services	15.01.2020
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Roads Development Management Team	20.01.2020
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▶ Representations

Mr A Blair, C/O MOD Bld 66, Braintree, Essex, cm7 4az,	Dated: 17.01.2020
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James Hamilton, , , , ,	Dated: 23.01.2020
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Mrs Diane Mutumha, 16 Craighenhill Road, Kilncadzow, Carluke, South Lanarkshire, ML8 4QT	Dated: 09.01.2020 09.01.2020 09.01.2020
Diane Mutumha, , , , ,	Dated: 09.01.2020
Mr William Smith, Greenside, Moor Road, Cartland Lanark, South Lanarkshire, ML11 7RE	Dated: 14.01.2020 14.01.2020 14.01.2020 14.01.2020 14.01.2020
Wendy And Pat Leonard, 8 Carnwath Road, Kilncadzow, Carluke, South Lanarkshire, ML8 4QW	Dated:
Mr David Onions, 9 Craighenhill Road, Kilncadzow, Carluke, South Lanarkshire, ML8 4QT	Dated: 16.01.2020 16.01.2020
BM Austin, 18 Craighenhill Road, Kilncadzow, Carluke, South Lanarkshire, ML8 4QT	Dated: 07.01.2020
Mrs P Baverstock, 12 Craighenhill Road, Kilncadzow, Carluke, South Lanarkshire, ML8 4QT	Dated: 09.01.2020
Mr Emmanuel Mutumha, 16 Craighenhill Road, Kilncadzow, Carluke, South Lanarkshire, ML8 4QT	Dated: 08.01.2020
Mr And Mrs Watt, 14 Craighenhill Road, Kilncadzow, Carluke, ML8 4QT,	Dated: 31.12.2019

Contact for further information

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

Jerry Gigya, Planning officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB
 Phone: 01698 455180
 Email: jerry.gigya@southlanarkshire.gov.uk

Planning Application

Application number: P/19/1861

Conditions and reasons

Reasons for refusal

01. The proposed residential development would be contrary to Policy 3: Green Belt and Rural Area of the adopted South Lanarkshire Local Development Plan and Policy GBRA4 of the Green Belt and Rural Area Supplementary Guidance as it would constitute an inappropriate form of development within the Rural Area without any relevant justification.
02. The location, orientation and relationship of the application site with adjacent dwellings is such that the proposal constitutes backland development which, if approved, would adversely affect the amenity of neighbouring properties. The proposal would therefore be contrary to Policy 4: Development Management and Placemaking of the Local Development Plan.
03. The proposal would be contrary to Policy 4: Green Belt and Rural Area of the Proposed South Lanarkshire Local Development Plan 2 and Policy GBRA7 of the Green Belt and Rural Area Supplementary Guidance of the proposed SLLDP2 as it would constitute an inappropriate form of development within the rural area without any relevant justification.
04. The proposal would be contrary to Policy 5: Development Management and Placemaking of the Proposed South Lanarkshire Local Development Plan 2 as it would constitute backland development which, if allowed, would adversely affect the amenity of neighbouring properties.

Reason(s) for decision

The proposed development does not comply with the requirements of Policy 3 of the South Lanarkshire Local Development Plan (2015), Policy 4 and Policy GBRA4 of the Supplementary Guidance on Green Belt and Rural Area. The application is also contrary to Policy 4, Policy 5 and Policy GBRA7 of the proposed SLLDP2.

iv. The SPP sits alongside the following Scottish Government planning policy documents:

- the [National Planning Framework](#) (NPF)², which provides a statutory framework for Scotland's long-term spatial development. The NPF sets out the Scottish Government's spatial development priorities for the next 20 to 30 years. The SPP sets out policy that will help to deliver the objectives of the NPF;
- [Creating Places](#)³, the policy statement on architecture and place, which contains policies and guidance on the importance of architecture and design;
- [Designing Streets](#)⁴, which is a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
- [Circulars](#)⁵, which contain policy on the implementation of legislation or procedures.

v. The SPP should be read and applied as a whole. Where 'must' is used it reflects a legislative requirement to take action. Where 'should' is used it reflects Scottish Ministers' expectations of an efficient and effective planning system. The Principal Policies on Sustainability and Placemaking are overarching and should be applied to all development. The key documents referred to provide contextual background or more detailed advice and guidance. Unless otherwise stated, reference to Strategic Development Plans (SDP) covers Local Development Plans outwith SDP areas. The SPP does not restate policy and guidance set out elsewhere. A [glossary](#) of terms is included at the end of this document.

2 www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Framework

3 www.scotland.gov.uk/Publications/2013/06/9811/0

4 www.scotland.gov.uk/Publications/2010/03/22120652/0

5 www.scotland.gov.uk/Topics/Built-Environment/planning/publications/circulars

**APPELLANT'S PRODUCTION No. 11
CRAIGENHILL ROAD, KILNCADZOW**

Scottish Farming Index

KNIGHT FRANK SCOTTISH FARMLAND INDEX

Average value £/acre

Quarter	Good arable	Average arable	Arable/ Grass	Permanent Pasture	Hill	Unweighted average
2008 Q4	4,500	4,000	3,250	1,650	425	2,765
2009 Q2	4,875	4,125	3,375	1,875	450	2,940
2009 Q4	5,250	4,250	3,500	2,100	475	3,115
2010 Q2	5,700	4,425	3,500	2,400	500	3,305
2010 Q4	5,850	4,450	3,475	2,450	515	3,348
2011 Q2	6,340	4,475	3,500	2,475	571	3,472
2011 Q4	6,825	4,501	3,500	2,500	600	3,585
2012 Q2	7,053	4,633	3,603	2,531	614	3,687
2012 Q4	7,285	4,786	3,783	2,633	659	3,829
2013 Q2	7,698	5,057	3,846	2,676	692	3,994
2013 Q4	8,468	5,394	3,974	2,783	704	4,265
2014 Q2	8,612	5,502	4,054	2,783	704	4,331
2014 Q4	8,956	5,612	4,013	2,783	718	4,417
2015 Q2	9,046	5,612	4,013	2,783	732	4,437
2015 Q4	9,046	5,425	3,946	2,737	673	4,366
2016 Q2	9,046	5,425	3,920	2,719	673	4,357
2016 Q4	9,046	5,154	3,659	2,583	673	4,223
2017 Q2	9,200	5,154	3,622	2,583	707	4,253
2017 Q4	9,319	5,139	3,622	2,557	719	4,271
2018 Q2	9,347	5,154	3,633	2,565	725	4,285
2018 Q4	9,319	5,139	3,607	2,539	748	4,271

Source: Knight Frank Research

APPELLANT'S PRODUCTION No. 12
CRAIGENHILL ROAD, KILNCADZOW

