

STATEMENT OF OBSERVATIONS

Planning Application No: P/19/1545

Change of Use of Open Space to Form Additional Garden Ground and Erection of Boundary Fence

2 Howacre Lanark ML11 7PL

1.0 Planning Background

- 1.1 Planning permission was sought for the change of use of part (77 square metres) of an established area of public open space to form additional garden ground and the erection of a boundary fence on the site, located within a residential area at 2 Howacre, Lanark. After due consideration of the application in terms of the Local Development Plan and other material planning considerations the application was refused by the Council under delegated powers on 20 December 2019. The report of handling dated 5 December 2019 explains the decision and the reasons for refusal are listed in the decision notice.
- 1.2 It should be noted that on 13 May 2019 a previous application (ref P/19/0757) was submitted for the change of use of a larger area (155 square metres)of public open space to form additional garden ground and the erection of a boundary fence at 2 Howacre Lanark. That application was subsequently withdrawn by the applicant on 11 October 2019 and the current amended application was subsequently lodged.

2.0 Assessment against the development plan and other relevant policies

- 2.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, requires that an application for planning permission is determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan in this instance comprises the adopted South Lanarkshire Local Plan and an assessment of the development proposal against the relevant policies is detailed in the Officer Report, dated 05 December 2019.

3.0 Other Material Considerations

- 3.1 On 29 May 2018 the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and it is now a material consideration in determining planning applications. The proposed development was 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. The relevant Policies are 3 - General Urban Areas and Settlements and 5 – Development Management and placemaking of the approved Proposed South Lanarkshire Local Development Plan 2.

4.0 Observations on applicants 'Notice of Review'

- 4.1** The applicant's grounds for the review are based on his response to the council's reasons for the refusal of the planning application. The grounds for the review are summarised as follows:

Reason for refusal 01. The proposal is contrary to Policies: 4 and 6 of the adopted the South Lanarkshire Local Development Plan in that it will not safeguard the character and enhance the amenity enjoyed by the residents of the local area.

The applicant feels that the first/original application addressed these concerns and that they more than safeguard the character and enhance the amenity space.

Response: As stated within the officer report (paragraph 5.3) the proposal would lead to a loss of 77 square metres or 20% of one of a limited number of public open spaces areas in the area. Given the overall size of the established public open space (391 Square metres), a reduction in size of such a magnitude would lead to a relatively significant reduction in the physical size of the existing valued amenity area which currently makes a significant contribution to the character and amenity of the surrounding area. The applicant has not shown or illustrated how a reduction in size of an existing public open space has more than safeguarded the character and enhance the amenity space.

- 4.2 Reason for refusal 02. The proposal is contrary to Policy DM 13 of the South Lanarkshire Local Development Plan in that it would result in the loss of or damage to valued public open space and local landscape which makes a significant contribution to the character and amenity of the area.**

The applicant feels that they compromised greatly and reduced their original application by 50%. The reference made in policy DM13 to "loss of public space" was something that was never mentioned to them throughout the process starting from e-mail discussions with SLC/Estates (September 2017) to both planning applications with planning officers (October 2019). They were under the impression that as adjacent property owners they had every chance of succeeding in acquiring the land.

Response: The application site is in the Council ownership and when the applicant approached the Council about purchasing the land they were advised that this would be dependent on them securing planning permission for the change of use. The applicants originally applied for a larger area of the public

open space but subsequently withdrew the application on 11 October 2019 after being advised that the proposal could not be supported in planning terms. The amended application was duly assessed but raised the same concerns which led to the decision to refuse.

4.3 Reason for refusal 03. If approved, the proposal would set an undesirable precedent which could encourage further similar applications for the developments prejudicial to priority green space designations.

The applicants are of the view that historically other applications to extend gardens into spaces have been approved.

Response: Notwithstanding the fact that the applicants have provided no evidence to substantiate the above, each proposal is considered on its own merits.

5 Conclusions

The proposed development does not comply with the requirements of Policies 4 and 6 of the South Lanarkshire Local Development (2015) and in particular Policy DM 13 of Supplementary Guidance 3: Development Management Placemaking and Design. Further, it does not accord with Policies 3 and 5 of the approved Proposed South Lanarkshire Local Development Plan 2. It is respectfully requested that the Review Body refuse planning permission for the proposed development.