



To: Planning and Property Policy Board

On: 25 August 2015

Report by: Director of Development and Housing Services

Heading: PLANNING AND RELATED APPEAL DECISIONS

1. Summary

1.1 This report is to inform Members on the outcome of planning and related appeals which have been submitted to the Scottish Government's Directorate of Planning and Environmental Appeals between 1st August 2014 and 1st August 2015.

2. Recommendations

(i) That Members note the outcome of the Appeals set out in the Report below.

3. Background

3.1. The changes introduced by the Planning etc. (Scotland) Act 2006 included substantial changes to the procedures by which planning applications and related matters could be reconsidered following the refusal of planning permission or following the service of an enforcement notice.

3.2. Where an applicant is aggrieved by a decision on a planning application that has been determined by an Appointed Officer under the Council's Scheme of Delegation, the applicant may seek a fresh consideration of the application by the Local Review Body.

- 3.3. However, where an application has been determined by the Planning and Property Policy Board, the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA), through a Reporter, will determine the matter. Similarly enforcement of planning control is a matter delegated to the Head of Planning and Development but enforcement appeals are determined by the DPEA.
- 3.4. To provide some context on the low volume of appeals, Members should be aware that for the year 2014-2015 some 98.2% of all applications were approved. Similarly, 98.3% of all applications were determined under the Scheme of Delegation.
- 3.5. The following table indicates the number of appeals submitted to DPEA, by type, and by outcome (where they have been determined at the date of writing). Annexe 1 contains the Reporter's Decision Letter for the Appeal at Bowfield Hotel and Country Club, Howwood.

Table 1: Appeals Submitted to DPEA Between 1 August, 2014 and 1 August, 2015

| APPEAL TYPE | DESCRIPTION | DECISION |
|---|--|--|
| REFUSAL OF PLANNING PERMISSION (2 APPEALS) | (1) Erection of extensions to hotel and external alterations: Bowfield Hotel and Country Club, Bowfield Road, Johnstone, PA9 1DB (Application 'called-in' and decided by Board.) (2) Formation of airport car parking and associated landscaping: Normandy Hotel, Inchinnan Road, Renfrew, PA4 9EJ. (Decided under delegated powers.) | (1a) Appeal sustained and planning permission granted subject to conditions. (1b) Award of costs against Council declined. (2) Appeal not within remit of DPEA. Sent back to applicant as a matter to be considered by the Local Review Board. |
| ENFORCEMENT NOTICE (1 APPEAL) | Unauthorised use of farm for waste plastics recycling: Auchans Farm, Auchans Road, Houston, PA6 7EE (Action authorised under delegated powers.) | With DPEA awaiting decision. |
| HIGH HEDGES (2 APPEALS) | Both relate to trees forming a hedge situated at The Homestead, Golf Course Road, Bridge of Weir, PA11 3HN (Decided under delegated powers.) | With DPEA awaiting decision. |

Implications of the Report

1. **Financial** – none.
 2. **HR & Organisational Development** – none.
 3. **Community Planning** – None
 4. **Legal** – none.
 5. **Property/Assets**–none.
 6. **Information Technology** – none.
 7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only.
 8. **Health & Safety** – none.
 9. **Procurement** – none.
 10. **Risk** – none.
 11. **Privacy Impact** – none.
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List of Background Papers

- (a) Background Paper 1: Council Scheme of Delegation to Officers
Background Paper 2: Scheme of Delegation Protocol
Background Paper 3: Council Planning Enforcement Charter

The foregoing background papers will be retained within Development and Housing Services for inspection by the public for the prescribed period of four years from the date of the meeting.

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Directorate for Planning and Environmental Appeals

Appeal Decision Notice

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Decision by David Russell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-350-2012
- Site address: Bowfield Hotel and Country Club, Bowfield Road, Johnstone, PA9 1DB
- Appeal by Manorview Hotel & Leisure Group against the decision by Renfrewshire Council
- Application for planning permission 14/0367/PP dated 14 May 2014, and refused by notice dated 11 November 2014
- The development proposed: Erection of three storey and single storey extensions to hotel and external alterations
- Application drawings: Location plan, and drawing reference numbers - 200-12-001, 200-12-002, 200-12-003, 200-12-004 Rev. F, 200-12-005, 200-12-006, 200-12-007 Rev. L, 200-12-009 Rev. D
- Date of site visit by Reporter: 1 April 2015

Date of appeal decision: 17 June 2015

Decision

I allow the appeal and grant planning permission subject to the nine conditions listed at the end of this decision notice.

Notes:

- Attention is also drawn to the three advisory notes at the end of the notice.
- The appellant submitted a claim for an award of expense to be made against the council in relation to this appeal. I will deal with that matter separately.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. In refusing to grant planning permission, the council referred to two of the provisions of the development plan: Policy ENV1 'Green Belt' of the Renfrewshire Local Development Plan; and the council's adopted supplementary guidance relating to 'new development'. No provisions of the Glasgow and Clyde Valley Strategic Development Plan have been drawn to my attention which would be relevant to the determination of this appeal.

2. The Renfrewshire Local Plan was replaced by the local development plan on its adoption in November 2014. Accordingly, none of its provisions, which were part of the statutory development plan when the planning application was lodged, remain in force or are now relevant to this appeal. This position is reflected in the council's reasons for refusal and its submission in relation to the appeal.

3. Having regard to the provisions of the development plan, the key issues in determining this appeal are whether the proposed development would be inconsistent with its green belt location, and whether there are any other material considerations which would indicate that planning permission should, or should not, be granted.

4. Proposals for development within the green belt require to be assessed against the terms of Policy ENV4 of the local development plan. It states that: "Appropriate development within the green belt will be considered acceptable where it can be demonstrated that it is compatible with the provisions of the New Development SG (supplementary guidance). Support will be given to developments that are able to demonstrate diversification within green belt and rural areas which promote new employment opportunities and/or community benefits."

5. In the circumstances of this case, where the hotel and country club is already an established and approved development within the green belt which provides employment opportunities and community benefits, I consider that the proposed improvements and extension would be supported by this policy, unless there are likely to be significant detrimental impacts which would be contrary to the terms of the supplementary guidance.

6. In terms of guidance about developments within the green belt, the supplementary guidance is also broadly supportive both of tourism developments and the expansion of existing businesses. The guidance also sets out a range of criteria for development within the green belt, none of which would be contravened in this case, particularly as the hotel and country club now forms part of the character of this part of the green belt.

7. Policy E4 relates to tourism, stating that: "Proposals for the development of tourist facilities will be supported where it can be demonstrated that:

- The scale of the proposal is proportionate and fits in well with the location;
- The development will complement existing / proposed tourist facilities in that area;
- Additional visitors that may be attracted to the area can be accommodated by existing infrastructure or improvements to facilities; and,
- The development can demonstrate a site specific locational need."

8. I consider that this policy is also broadly supportive of the extension and improvement of the facilities of the established hotel and country club, subject to an assessment of its specific impacts. In this case these concerns relate to the potential for existing impacts to be exacerbated by the proposed changes, and these mainly relate to noise and disturbance to the residents of nearby houses, and road safety concerns regarding the potential for greater use to be made of a steep and winding narrow road which connects the hotel and country club more directly with the main A737 road than does the route through the nearby village of Howwood.

9. The proposed bedroom extension at the rear of the hotel would not be likely to have any significant effects on nearby residents through additional noise and disturbance. Indeed there may be a beneficial effect in providing overnight accommodation for more of the people attending evening events or using the leisure facilities. This would reduce the potential for disturbance from the comings and goings of vehicles and customers at unsocial hours. In addition, the presence of guests within bedrooms is more likely to ensure that excessive noise, either internal or external, is curbed, as otherwise this is likely to lead to complaints to the hotel's management from paying guests.

10. I accept that the provision of enhanced outdoor seating facilities is likely to cause some increase in the noise which carries to nearby properties. However this is an established hotel and country club, and I consider that such provision is appropriate to cater for guests affected by restrictions on smoking, as well as those who wish to enjoy the weather and/or the surroundings. The suggested conditions for screen planting and restricted hours of use, together with the proximity of hotel bedrooms, are likely to restrict the impact on nearby residents.

11. Given the hotel and country club's location, and the relatively short connection to the A737 provided by the unclassified road, the possibility of vehicles using that road to access its facilities cannot be discounted. Indeed, submitted evidence shows that this happens already. However, as noted above, the provision of additional bedroom accommodation could reduce the number of departures in hours of darkness, and further evidence has shown that the country club is operating at a lower level of membership than previously. I note that the hotel's management will advise guests not to use that route and the council's professional roads advisers raised no objection to the proposal. In these circumstances, I do not consider that the availability of that route renders inappropriate the proposal to extend and improve the hotel and country club's facilities.

12. In light of these findings, I conclude that the proposed development would also be consistent with the terms of both Policy E4 and ENV1, and also with the associated supplementary guidance. Accordingly, I find that the proposal would be in accordance with the relevant provisions of the development plan.

13. I therefore turn now to consider whether there any other material considerations which would still justify refusing to grant planning permission. The council has referred in its decision notice to the public road network being inadequate. While I agree that the nearby lane is clearly sub-standard at present, the council's professional advisers raised no objection to the proposal. Submitted evidence indicates that that road is lightly used, and in the circumstances of the limited increase in vehicle movements likely to be generated by the current proposal, and the measures proposed by the appellants to encourage customers to use the other roads, I consider that refusal of planning permission would not be justified by the nature of the road network in this area.

14. With regard to the potential impact on the amenity of nearby residents which has been highlighted in representations, it is clear that the proximity of the hotel and country club already impinges on the rural character and relative tranquillity of this area. Concerns about the glare from external lighting are current matters to be addressed separately, as they do not form part of the proposal which is the subject of this appeal. As outlined above, evidence regarding traffic movements does not justify refusal of planning permission, and

I am satisfied that the conditions suggested by the council to control the potential impact of outdoor noise are appropriate and sufficient.

15. Drawing these matters together, my final conclusions are that the proposal would be consistent with the relevant provisions of the development plan and that there are no other material considerations which would justify refusing planning permission.

16. With regard to the planning conditions suggested by the council, I am satisfied that these meet the six tests for any condition which are set out in Circular 4/1998 which requires it to be: related to planning; related to the development; precise; enforceable; necessary; and reasonable. In the course of the appeal, an error was identified relating to a plan showing the layout of parking provision and the access route for service vehicles. I am satisfied that this can be addressed through an additional planning condition and, as confirmed by the planning authority, does not justify refusing to grant planning permission.

David A. Russell

Principal Inquiry Reporter

Conditions

1. That before development starts, full details and/or samples of the facing materials to be used on all external walls and roofs shall be submitted to, and be approved by, the planning authority. Thereafter only the approved materials shall be used in the development of the site.

Reason: To safeguard visual amenity

2. That noise from the function room shall be inaudible at the external face of any dwelling. The glazing specification and other noise prevention measures as detailed within the Noise Measurements & Assessment Report prepared by Acoustic Consultancy Services dated August 2014 (Version 1.4) shall be implemented before the development hereby approved is brought into use and shall be maintained as such for the duration of the development.

Reason: To protect nearby residents from noise disturbance.

3. That the use of the beer garden/external terrace at the eastern side of the building and adjacent to the function suite, shall cease no later than 22.00 hours each day.

Reason: In the interests of residential amenity.

4. Prior to any works commencing on site a planting scheme for the area of land on the eastern perimeter of the car park (adjacent to the illuminated areas of the car park and directly adjacent to the outdoor drinks terrace) shall be submitted for the approval of the planning authority to mitigate the potential effect of light glare. The planting scheme shall include details of the location, number, species and size of trees to be planted. Thereafter, and before the end of the first planting season following the function suite being brought into use, the trees shall be planted and any trees which subsequently die, or are removed,

damaged or become diseased within 5 years of the completion of the development, shall be replaced in the next planting season with others of a similar size and species.

Reason: To protect nearby residents from potential glare from external lighting.

5. Prior to any construction works commencing, a site investigation report shall be prepared and shall be submitted to and be approved by the planning authority. The report shall identify:

- a) the nature and extent of any soil, water and gas contamination within the site and recommend any necessary remedial works; and, if remedial works are recommended in the report,
- b) a remediation strategy and method statement identifying the proposed methods for implementing all remedial recommendations contained within the report.

The report shall be prepared in accordance with authoritative technical guidance (including BS10175:2011 - Investigation of potentially contaminated sites - Code of Practice; Planning Advice Note 33 (PAN33) and Renfrewshire Council's publication "An Introduction to Land Contamination and Development Management").

Reasons: To identify and address any contamination within the site.

6. Prior to the occupation of any of the accommodation hereby approved or any of the development hereby approved being brought into use, a verification report confirming completion of the works specified within the approved remediation strategy (as required by Condition 5 above) shall be submitted to the planning authority.

Reason: To ensure that remediation of any site contamination is addressed.

7. The luminance of the external lighting shall not exceed the luminance levels detailed in the outdoor lighting report (prepared by Candela Light and dated 2nd October 2014).

Reason: To protect nearby residents from potential light pollution.

8. No development shall take place until full details of soft and water landscaping works have been submitted to and approved in writing by the planning authority in consultation with Glasgow Airport. Details must comply with Advice Note 3 'Potential Bird Hazards from Amenity Landscaping & Building Design'. These details shall include:

- any earthworks
- grassed areas
- the species, number and spacing of trees and shrubs
- details of any water features.

No subsequent alterations to the approved landscaping scheme are to take place unless submitted to and approved in writing by the planning authority in consultation with Glasgow Airport. The scheme shall be implemented as approved.

Reason: To avoid endangering the safe movement of aircraft and the operation of Glasgow Airport through the attraction of birds and an increase in the bird hazard risk of the application site.

9. Before the development starts, a revised plan showing the provision of car parking and the access route for service vehicles shall be submitted to and be approved by the planning authority, and that plan shall be implemented before the additional accommodation is occupied.

Reason: To ensure that sufficient space is available for service vehicles to access the premises.

Advisory notes

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Directorate for Planning and Environmental Appeals
Claim for an Award of Expenses Decision Notice

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Decision by David Russell, a Reporter appointed by the Scottish Ministers

- Appeal reference: PPA-350-2012-E
- Site address: Bowfield Hotel and Country Club, Bowfield Road, Johnstone, PA9 1DB
- Claim for expenses by Manorview Hotel and Leisure Group against Renfrewshire Council

Date of decision: 17 June 2015

Decision

I find that the council has not acted in an unreasonable manner resulting in liability for expenses and, in exercise of the powers delegated to me, I decline to make any award.

Reasoning

1. Circular 6/1990 explains that parties are normally expected to meet their own expenses in planning appeals. Awards of expenses do not follow the decision on the planning merits, and are made only where each of the following tests is met:

- The claim is made at the appropriate stage in the proceedings;
- The party against whom the claim is made has acted unreasonably; and,
- This unreasonable conduct has caused the party making the application unnecessary expense, either because it was unnecessary for the matter to come before the Scottish Ministers, or because of the way in which the party against whom the claim is made has conducted its side of the case.

2. Here, the appellant's agent has lodged the claim at an appropriate stage in the proceedings, prior to my determination of the appeal.

3. In this case, the council's decision to refuse planning permission was taken against the recommendation of its planning officer. That in itself is not unreasonable behaviour. However the circular confirms that "reaching their decision without reasonable planning grounds for doing so" is one of the potential examples of unreasonable behaviour by planning authorities.

4. Here, the council provided two reasons for its refusal of the application, which identified relevant provisions of the development plan as well as other material considerations. In view of the evidence before it from the appellant and local residents concerning the potential increase in traffic, noise and disturbance, and light pollution, I consider that the

planning authority was entitled to reach its own conclusion on the acceptability of those effects, contrary to those of its professional officers.

5. The council's contention that these are effects which would also impact on the character of the green belt is not unreasonable either. Accordingly I am also satisfied that it was entitled to argue that the proposal would be contrary to the green belt policy (Policy ENV1) of the local development plan, which requires to be read in conjunction with the associated supplementary guidance.

6. I therefore conclude that the council has not acted unreasonably and, in these circumstances, it is not necessary for me to address the third test as to whether the appellant has been required to incur additional expenses unnecessarily.

David A. Russell

Principal Inquiry Reporter