Item 6

10th September 2024

Planning Services 231 George Street GLASGOW G1 1RX Tel: 0141 287 8555 Email: onlineplanning@glasgow.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 100670699-001

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:	bennett Developments and Consulting		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Don	Building Name:	
Last Name: *	Bennett	Building Number:	10
Telephone Number: *	07989417307	Address 1 (Street): *	Park Court
Extension Number:		Address 2:	
Mobile Number:	07989417307	Town/City: *	Glasgow
Fax Number:		Country: *	United Kingdom
		Postcode: *	G46 7PB
Email Address: *	don@bennettgroup.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Lloyd	Building Number:	266
Last Name: *	Kinnaord	Address 1 (Street): *	Carsaig Drive
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Glasgow
Extension Number:		Country: *	United Kingdom
Mobile Number:	07989417307	Postcode: *	G52 1AR
Fax Number:			
Email Address: *	don@bennettgroup.co.uk		

Site Address Details

Planning Authority:	Glasgow City Council

Full postal address of the site (including postcode where available):

Address 1:	266 CARSAIG DRIVE
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	GLASGOW
Post Code:	G52 1AR

Please identify/describe the location of the site or sites

Northing	664140	Easting	254314

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)

Formation of driveway and access to front of flatted dwelling(retrospective)

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 a 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.

Failure of planning officer to properly apply policies

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)

Statement of Appeal Decision Notice Report of Handling Application Form Location Plan Existing Plan Proposed Plan

Application Details

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

23/02558/FUL

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

17/11/2023

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

16/02/2024

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

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 Don Bennett

Declaration Date: 06/05/2024

bennett *Developments and Consulting*
10 Park Court,
Glasgow, G46 7PB
don@bennettgroup.co.uk

APPEAL STATEMENT

30.4.2024

266 CARSAIG DRIVE, GLASGOW G52 1AR
APPEAL TO GLASGOW CITY COUNCUL LOCAL REVIEW COMMITTEE AGAINST THE REFUSAL OF PLANNING PERMISSION FOR RETROSPECTIVE WORKS AT 266 CARSAIG DRIVE, GLASGOW G52 1AR
APPLICATION REF 23/02558/2024

01 Background

The property at 266 Carsaig Drive occupies the upper floor of a four- in -the block building and is located on a bend in the road at the junction of Carsaig Drive and Bowmore Road.
As with all 4 in the block properties, the lower flat has a front entrance while the upper apartment has a side access from the driveway which can obstruct vehicular access up the driveway to the rear.
In this instance the appellant unwittingly, and in ignorance of the need to seek planning permission, created a driveway and parking area to the side of the property.
On 16/10/2023 a retrospective application(23/02558/FUL) was lodged and subsequently refused on 16th February 2024.

In refusing the application the reasons given were:

01 The proposal was not in accordance with the Development Plan and there was no material considerations which outweigh the proposals variance with the Development Plan
02 The development proposal is contrary to Policy 1 -Tackling the Climate and Nature Crisis, Policy 2-Climate mitigation and Adaption, and Policy 14-Design,Quality and Place of the National Planning Framework NPF4.
03 The development proposal is contrary to CDP1- The Placemaking Principle and SG1:Placemaking (Part 2, Residential Development-Alterations to Dwelling and Gardens),of the Glasgow City Development Plan 2017, as specified below and there is no reason to depart therefrom.
04 The driveway occupies the full extent of the front garden area at 266 Carsaig Drive to the detriment of the visual amenity of the property, wider locale and to the detriment of climate mitigation objectives and biodiversity.

02 Assessment against Policy

In determining an application the local authority is required to assess it in the context of the latest approved and adopted local development plan and other relevant legislation as appropriate, in particular the latest National Planning FrameworkNPF4.
In carrying out that assessment the planning authority is required to produce a Report of Handling(ROH) which explains and justifies the decision taken.

However before examining the ROH in detail it would be useful to set the context within which this proposal was conceived and implemented. In the first instance Carsaig Drive is a particularly narrow thoroughfare which doe not accommodate two vehicles passing because of parked cars. This is due mainly to the fact that many of the houses do not have driveways and on street parking is the only option. The fact that at this location Carsaig Drive is on a bend with poor sight lines exacerbates the problem which will only be made worse by the recently introduced pavement parking restrictions.
Given that the address is part of a 4 in the block property where conventionally the upper apartment has the side area and the lower apartment the front garden area, the only way the upper apartment can create any off street parking is by utilizing the front side garden and the only way these major safety issues can be addressed is by allowing off street parking in the front gardens.
Having established the context and the traffic problems at this location, these should have been a factor in considering the application, but it is clear that they were not.

Accordingly it is necessary to examine the ROH and establish whether or not the reasons given for the refusal are substantive and can be justified.

03 Report of Handling

For ease of reference, page number and paragraph headings will be used wherever possible

Page2 Design & Materials

It is noted under the section Design and Materials that reference is made to the fact that the ground floor property at 264 has already mono-blocked their front garden and this appears to infer that accordingly the same treatment cannot be considered appropriate in this instance. The fact that the neighbour has carried out the same works is not a valid or relevant matter and should not be a consideration in refusing the application.

Page 2 Access & Parking

It is recognised that off street parking has been provided and that this is welcomed, but fails to appreciate that this has only been possible by virtue of implementing the works which are the subject of the refusal
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Page 3 Other Comments

Policy 14 of NPF4 is cited as requiring well designed buildings and spaces and that when practiced can produce successful places. It is not made clear how successful places are defined as the existing situation with narrow roads, poor sightlines, and parking restrictions is far from successful and it is only the applicants measures which has contributed to easing these safety concerns, so it might reasonably be argued that the works carried out have created a successful place and certainly a safer place.
It is also suggested that the works have created a place which is not resilient to climate change impacts or creates a more nature positive place. It is also claimed that the lack of any greenery and the extent of the hard landscaping is detrimental to the area. If this was of such significance one must ask why it was not discussed during the assessment of the application and proposals required to address these concerns, yet this did not happen. This would suggest that dialogue with applicants to resolve issues such as this is not happening with the result that refusals are more prevalent and appeals are more prevalent. Neither situation is desirable.
The climate related policies which have become common parlance, are of questionable value, literally incompetent and are not proven. While reference to the new age policies on climate, nature positive places, etc might satisfy a box ticking exercise there is no development of the policies other than to make reference to them. This is not parkland or open space. This is the front side garden in a dense residential area. There is an area of grassland immediately opposite this site which provides a green space and shrubbery. In addition the use of climate related policies must be applied with caution and must be set against the merits of the proposal and the potential impact of applying polices which may or may not have any validity. It is noted that the Scottish Government recently abandoned any attempt to meet targets by 2030 and have pushed these back to 2045 as being more realistic. Climate related policies must be seen in a holistic context and not simply imposed.

Page 3 City Development Plan 2.25/2.26/2.27 Front Garden Parking

These policies establish the guidance which all development should follow in respect of the above circumstances.
Policy 2.26 makes specific reference to the fact that no more than 50% of the front garden should be given over to vehicular access, the reality is that in a four in the block situation it is almost impossible to provide sufficient off street parking without using the front garden areas, but how is front garden defined. In a 4 in the block a front garden is defined as that area immediately in front of the door to the lower apartment while the upper apartment has the area defined as the side garden.
As this application does not relate to the front garden the issue of 50% is irrelevant.
However the more important issue is what is more important , safe traffic/parking conditions with properly designed off street parking or a front garden which may be nothing more than a tip, may be entirely rough ground, need have no green elements at all, as the need for grassed area is not a requirement . In the circumstances which prevail at this site, the use of the front side garden as a properly designed and surfaced parking area is preferrable to an overgrown and unkept area which lacks purpose, yet cannot be legislated against.
It is in situations such as this where there has to be a more pragmatic approach taken by planning officers rather than slavishly follow a policy which is ,after all intended to be guidance, to the extent that it creates the problem rather than resolve the problem. Surely it would have been possible to approve the application with conditions about adding landscaping measures.

Page 4 Comment

The ROH summarises all of the preceeding policy statements and concludes that the area of front garden which has been paved is not acceptable and at the very least should have retained or introduced some elements of greening. As has already been established the area in question is not the front garden so the comments are not competent and Policy 2.26 on which the planning officer has based the assessment, is irrelevant.
It also labours on the fact that two other adjacent properties have carried out the same works, though there is no indication that there has been any enforcement action so it must be presumed that in those cases the works were deemed to be acceptable. In any event the actions of others cannot be used as a reason to penalize the appellant.
It also stresses that no attempt has been made to mitigate the lack of soft landscaping, yet again there is no indication that the appellant was asked to include such measures. The site is of a size that had such a request been made then it would have been complied with and such soft landscaping as was being sought, would have been introduced.

The ROH concludes with noting that there were no complaints or objections to the proposals but in this case that is not a reason in itself to grant planning permission. While that is true had it been the opposite and there had been complaints/objections it would have been a factor, which might suggest an arbitrary approach to public representations.

In conclusion, the reason cited for refusing the application are not substantive in that:

Reason 01 is a catch all and is dealt with in the other responses.

Reason 02 is highly questionable in the context of Scottish climate targets and not a justification for refusing the application

Reason 03 has been addressed and it has been demonstrated that there is no substance to this reason apart from the reference to Front Gardens where it appears that the planning officer has assumed that the area of side garden is in excess of 50% is untrue and while it is accepted that all of the front garden will be paved, that area is not owned by the appellant. In any event this must be set against the safety merits of providing off street parking which on this bend on the road could be a life saver.

Reason 04 The proposed works do not cover the entire site as is suggested. The major part of the front gardens belongs to the ground floor flat. The fact that combined the two areas of garden will be paved is simply a matter of fact, but the fact that the lower apartment has previously paved the entire front garden cannot prejudice the right of the appellant to pave part of his garden in order to create off street parking. The lack of soft or greening elements could have been resolved during the assessment stage had the planning officer intimated concerns. The lack of these elements is not a substantive reason to refuse the application
In the circumstances the decision to refuse the application was flawed and should be overturned and the application approved

04 Summary:

It is clear that the assessment of the proposal was flawed and incorrect policies were applied resulting in an unsafe determination. There was no dialogue with the appellant on the issues which were of most concern, namely the area of front garden being taken over for parking and the lack of any soft landscaping which might have reduced the impact of the areas of mono block. Had such a conversation ensued it is clear that the issues could have been resolved and that the proposed works would have delivered a result that recognized the safety aspects of the works and the desire to soften the paved areas. If these greening issues were not detailed during the assessment stage this could so easily have been dealt with by conditions. At no time did the planning officer try to find a balance between the competing demands of leaving part of the garden or creating a safer traffic environment, but instead chose to ignore the traffic benefits in favour of some untested climate mitigation policies.

From all of the foregoing It is apparent that the planning authority have mistakenly assessed the application against an irrelevant policy2.26 related to a 50% rule, have failed to produce any substantive arguments to justify the refusal and indeed through their lack of any constructive involvement are culpable in the situation in which the applicant finds himself.

In the circumstances we would ask that the decision to refuse be overturned and the appeal granted.

Were the committee minded to support the appeal and overturn the original decision but feel that some greening of the site would be desirable, perhaps they might consider imposing conditions to soften the site with judicious planting.

bennett *Developments and Consulting*
30.4.2024