

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 8 MARCH 2016

LAND TO REAR OF 20-25 ALEXANDER GORDON DRIVE, MONIFIETH

REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT:

The Committee is asked to consider an application for a Review of the decision taken by the Planning Authority in respect of the refusal of planning permission for change of use from open space to private garden ground, application No 15/00337/FULL, at Land to Rear of 20-25 Alexander Gordon Drive, Monifieth.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**);
- (ii) review the case submitted by the Applicant (**Appendix 2**); and
- (iii) consider the further lodged representations (**Appendix 3**).

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN

This Report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information from the Applicant and the Planning Authority to review the case. Members may also wish to inspect the site before full consideration of the Appeal.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

5. CONSULTATION

In accordance with Standing Order 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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Appendix 1 – Submission by Planning Authority
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Appendix 3 – Further Lodged Representations

ANGUS COUNCIL'S SUBMISSION RESPECT OF REFUSAL

APPLICATION NUMBER – 15/00337/FULL

APPLICANT- MR RUSSELL DUNCAN

PROPOSAL & ADDRESS – CHANGE OF USE FROM OPEN SPACE TO PRIVATE
GARDEN GROUND AT LAND TO REAR OF 20 – 25 ALEXANDER GORDON DRIVE,
MONIFIETH

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Angus Council

Application Number:	15/00337/FULL
Description of Development:	Change of Use from Open Space to Private Garden Ground
Site Address:	Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth
Grid Ref:	349604 : 733174
Applicant Name:	Mr Russell Duncan

Report of Handling**Site Description**

The triangular shaped application site which measures some 619sqm is located to the west of the rear gardens of 20 - 25 Alexander Gordon Drive. The application site is an area of open space that contains a number of mature trees. It is bound to the north, south and west by the former Ashludie Hospital site which is subject of a planning application for its redevelopment (appn: 15/00099/FULM refers) to accommodate 167 dwellings and associated open space (Report 327/15 refers). The north boundary of the site is defined by a post and wire fence with the east and west boundaries consisting of timber fencing. Access to the site is located at the north boundary.

Proposal

The application proposes the change of use of the open space to private garden ground associated with 20 - 25 Alexander Gordon Drive. The open space would be sub-divided between the six dwellinghouses with the existing mutual boundaries continued in a westward direction. It is indicated that any new fencing required to sub-divide the ground would be a continuation of the existing fencing that currently defines the gardens of the dwellinghouses.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 17 April 2015.

The nature of the proposal did not require a site notice to be posted.

Planning History

01/00873/FUL - Erection of 52 Dwellinghouses and Garages was approved 09.11.2001. This permission allowed for the existing housing development at Alexander Gordon Place and the current application site was approved as open space associated with that development.

Applicant's Case

The applicant has submitted a statement in support of the application which can be summarised as follows:

Prior to the submission of the planning application an exercise was undertaken to gain the approval of the

residents within the estate regarding the potential change of use of the public open space. Of the 52 properties within the estate 49 properties were in support of the proposed change of use. (Copies of the paperwork issued to the properties and the responses obtained have been provided as part of the application submission).

One of the key reasons for the high majority of support for the change of use was due to the area being largely unknown by the residents.

The amount of existing greenspace within the development is more accessible and usable as the green space in question is relatively small, has no through link, and is fenced off at both sides making it unsuitable with only one entrance and exit.

Over the last few years there has been an increasing concern from the local residents over the space encouraging and creating unsociable behaviour due to its secluded, private and restrictive location.

There is a selection of surrounding gardens with similar shaped, linear garden grounds such as Adderley Terrace and Adderley Crescent, therefore following the existing pattern of development.

The proposal will not infringe on development at Ashludie Hospital as the land is out with their ownership and the proposed garden ground will follow the pattern of development within Alexander Gordon Drive and the proposal within Ashludie Hospital.

The current open space is disused and unsuitable for its intended purpose. The change of use will allow for a more appropriate use of the space, benefiting the residents, reducing concern and worry over unsociable behaviour and saving time and money for Greenbelt Ltd who currently cut the grass within the space.

A letter has been submitted on behalf of the applicant in response to the points of objection. The content of this letter can be summarised as follows:

The residents of both Alexander Gordon Drive and Soyaux Avenue do not have title to any of the communal green belt areas within the estate. The owners of the land are in fact Greenbelt Holdings Ltd (A copy of Greenbelt Group Limited's title and title plan have been provided).

The 6 applicants No 20-25 Alexander Gordon Drive are not getting the land for free or somehow being "gifted" the land from Greenbelt Holdings Ltd. Between paying the market rate for the land and incurring both sides legal costs this will become a very expensive purchase.

Consultations

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - This consultee offers no objection to the proposal.

Scottish Water - There was no response from this consultee at the time of report preparation.

Representations

12 letters of representation were received. 5 offered objection whilst 7 supported the proposal.

The main points of support were as follows: -

The area of open space is never or very rarely used by other residents of the estate.

There are much larger areas of green space within the estate which are better suited to the purpose of amenity.

There have been acts of anti-social behaviour in the application site.

The area of open space is not being gifted to the six residents.

The number of residential properties to be built on the Ashludie Hospital site has dramatically increased therefore the bigger issue should be the density of development proposed on the hospital site.

The main points in objection to the application are: -

The loss of the open space is not justified.

Does reducing the area of open space within the estate have implications for the original intentions of the housing development?

The proposed redevelopment of Ashludie Hospital could potentially link into this area of open space thus creating a larger area of open space.

Why should six properties benefit from a commodity that belongs to all of the residents within the housing estate / who owns the land subject of the application? [the applicant has confirmed that Greenbelt Holdings Ltd are the owners of the application site and a copy of Greenbelt Group Limited's title and title plan have been provided to confirm this]

Other uses could be considered for the land if it is not suitable as open space.

The creation of a precedent if the application is approved what impact could this have on the other areas of open space within the estate.

If approved what impacts would this have on the fees residents pay to Greenbelt for the maintenance of the open space within the estate and would the title deeds of all the property owners need to be changed. These matters are not material to the determination of this planning application.

The relevant planning matters raised are discussed in the Assessment section of this report.

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries
 Policy S6 : Development Principles (Schedule 1)
 Policy SC32 : Open Space Protection
 Policy ER7 : Trees on Development Sites

TAYplan Strategic Development plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Angus Council is progressing with preparation of a Local Development Plan to provide up to date

Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Draft Proposed Angus Local Development Plan was considered by Angus Council at its meeting on 11 December with a view to it being approved and published as the Proposed ALDP for a statutory period for representations. The Draft Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP (June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP, as approved by Angus Council, will be subject to a 9 week period for representation commencing in February 2015. Any unresolved representations received during this statutory consultation period are likely to be considered at an Examination by an independent Reporter appointed by Scottish Ministers. The Council must accept the conclusions and recommendations of the Reporter before proceeding to adopt the plan. Only in exceptional circumstances can the Council choose not to do this. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it will be a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to its contents. This may change following the period of representation when the level and significance of any objection to policies and proposals of the plan will be known.

The application site is not specifically allocated and lies within the Development Boundary of Monifieth and as such the proposal is assessed in terms of the provisions of Policy S1 criterion (a). This policy indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

The application seeks the change of use of an existing area of open space to private garden ground which would be incorporated into the private gardens of 20 - 25 Alexander Gordon Drive. The principle of the development falls to be considered against Policy SC32: Open Space Protection which indicates there is a general presumption against development of open spaces of sporting, recreational, amenity or nature conservation value for other forms of development.

The area of open space and associated housing forming Alexander Gordon Drive and Soyaux Avenue was approved as part of application 01/00873/FUL. The principle of a residential development in this area was covered in the Angus Local Plan under Policy Mf/H5. A Development Brief for that site was subsequently adopted by the Council. That document indicates that its key objectives are to:-

- retain and safeguard woodland areas that provide a setting for Ashludie Hospital and future housing development;
- provide, as part of any new development, for passive and active public open space linking with the existing Ashludie Park;
- provide improved pedestrian and cyclist access and connections within and to the area;
- ensure high quality housing development that respects the setting of Ashludie Hospital.

The approved development provided for the creation of a useable open space area to the south west of the housing development. However, as required by the brief, it also provided a number of passive open space areas that were positioned such that they provided for retention of trees in an around the site. The current application site forms one of those areas that was specifically provided as passive public open space and that provided for safeguarding of important trees. That area has been maintained over the intervening period and remains in good condition.

With regards to Policy SC32 the proposal to change the use of the land to private garden ground is development which would be unrelated to a recreational use or activity. The proposal does not make provision for replacement open space and there is no evidence to suggest that there is no evidence to suggest an over provision of amenity space in the local area. Whilst there are larger areas of open space further south of the application site that provide for active use, the smaller areas that provide for passive use and help retain the landscape context of the area are also of value. It is noted from representations received in respect of this application that community opinion on the value of the open space is mixed but it appears to be of value to some. Those that do not value the area cite amongst other things, concern

regarding its use for anti-social behaviour, the limited natural surveillance available for the area, its limited accessibility and its limited use as an amenity area. However, in respect of those matters it is relevant to note that planning permission has recently been granted for the redevelopment of the wider Former Ashludie Hospital site for housing development (Appn: 15/00099/FULM refers). That permission provides for new houses with upper floor windows that would overlook the existing open space area and provide for additional natural surveillance. It also provides for new open space adjoining the existing area and incorporating pedestrian linkages in the vicinity which would result in the open space having the potential to add to the character and amenity of the existing and proposed residential areas. In these circumstances the proposal is contrary to Policy SC32.

Policy ER7: Trees on Development Sites; is relevant in the determination of the application due to the mature trees within the application site. The application proposes a change of use of the land to garden ground which does not involve any physical development therefore the existing trees would be unaffected by the proposed change of use. However, it is relevant to note that granting permission for change of use would allow householders to utilise permitted development rights within the area. Such development could include works that would impact adversely on the root structures of the trees and could jeopardise their long term future. The trees are important in terms of the townscape of the area.

I note the concerns raised by third parties regarding the establishment of a precedent for the loss of further open space. Whilst there is no concept of binding precedent in planning law, it is a material consideration that granting planning permission for a proposed development might set a precedent making it difficult for similar applications to be refused in the future. In that respect it is particularly relevant to note that the approved layout for the neighbouring site to the west includes several passive open space amenity areas that contain trees of some local townscape significance. Approval of this application might make it difficult to resist similar applications in the wider area that would detract from its character and amenity.

In conclusion the application proposes to change the use of an existing area of existing open space that was originally provided in association the adjacent housing development and incorporate it into the private garden areas of a number of houses. The letters in support of the application are noted but the loss of open space is contrary to the Council's policies and letters of objection to the proposal have also been received. The open space is of some amenity value and its loss would be to the detriment of the quality of the area. The value of the open space is likely to be increased as the site to the west is developed for housing and open space areas in that development link to the existing site. The proposal is contrary to development plan policy and there are no material considerations that would justify approval of the application contrary to the provisions of development plan policy.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Equalities Implications

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

Decision

The application is Refused

Reason(s) for Decision:

1. That the application is contrary to Policy SC32 of the Angus Local Plan Review 2009 as the proposed development would result in the loss of an open space area of amenity value.
2. That the proposal would establish an undesirable precedent that would make it difficult for the planning authority to resist similar applications for the loss of amenity open space areas which would be detrimental to the overall character and amenity of the area.

Notes:

Case Officer: Ruari Kelly
Date: 23 September 2015

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S6 : Development Principles (Schedule 1)

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

(a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.

(b) Proposals should not result in unacceptable visual impact.

(c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

(d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.

(e) Access to housing in rural areas should not go through a farm court.

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set

out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

(g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

(h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)

(i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.

(j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.

(k) The planting of native hedgerows and tree species is encouraged.

(l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

(m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)

(n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.

(o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)

(p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).

(q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)

(r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC32 : Open Space Protection

There is a general presumption against development of open spaces of sporting, recreational, amenity or nature conservation value including those shown on the Proposals Maps, for other forms of development. The loss of open space will only be considered acceptable where:

* the retention or enhancement of existing facilities in the area can best be achieved by the redevelopment of part of the site where this would not affect its sporting, recreational, amenity or nature conservation value or compromise its setting; or

* replacement open space of the same type and of at least equal quality, community benefit and accessibility to that being lost will be provided within the local area; or

* it is demonstrated through an open space audit that there is an identified excess of open space

provision in the local area to meet existing and future requirements taking account of the sporting, recreational and amenity value of the site.

Policy ER7 : Trees on Development Sites

Planning applications for development proposals affecting sites where existing trees and hedges occur and are considered by Angus Council to be of particular importance will normally be required to:

- (a) provide a full tree survey in order to identify the condition of those trees on site;
- (b) where possible retain, protect and incorporate existing trees, hedges, and treelines within the design and layout;
- (c) include appropriate new woodland and or tree planting within the development proposals to create diversity and additional screening, including preserving existing treelines, planting hedgerow trees or gapping up/ enhancing existing treelines.

In addition developers may be required to provide an Arboricultural Methods Statement, a Performance Bond and/or enter into Section 75 Agreements.

DEVELOPMENT BOUNDARIES

1.29 Angus Council has defined development boundaries around settlements to protect the landscape setting of towns and villages and to prevent uncontrolled growth. The presence of a boundary does not indicate that all areas of ground within that boundary have development potential.

Development boundaries:

Generally provide a definition between built-up areas and the countryside, but may include peripheral areas of open space that are important to the setting of settlements.

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Public interest: Development would have benefits for the wider community, or is justifiable in the national interest.

Proposals that are solely of

commercial benefit to the proposer would not comply with this policy.

DEVELOPMENT PRINCIPLES

1.44 The principles in Schedule 1 provide a 'checklist' of factors which should be considered where relevant to development proposals. They include amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information. The Local Plan includes more detailed policies relating to some principles set out. Not all development proposals will require to comply with all of the principles.

Policy S6 : Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles**Amenity**

- a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- b) Proposals should not result in unacceptable visual impact.
- c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

- d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- e) Access to housing in rural areas should not go through a farm court.
- f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17: Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary
- g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- k) The planting of native hedgerows and tree species is encouraged.
- l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).

Waste Management

- q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38).
- r) Development should minimise waste by design and during construction.

Supporting Information

- s) (s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Open Space

2.77 One of the characteristics of the Angus towns and villages is the diversity of open spaces, including public parks, coastal links areas, school playing fields, private gardens and grounds, allotments, path networks, civic spaces and general amenity areas including areas of tree planting. These spaces and the way they link together form a network of open space within the built up area and define the layout and structure of the Angus towns and villages.

2.78 Open spaces serve a range of functions, they contribute towards the amenity and character of an area, are an important sporting, recreational and social resource, provide opportunities for wildlife and nature conservation and are valued and enjoyed for a variety of reasons. The Local Plan seeks to protect the open space network from development, which might erode the function of open spaces or the characteristics for which they are valued. This includes green corridors, which provide physical linkages to major open spaces and direct access to the countryside.

Policy SC32 : Open Space Protection

There is a general presumption against development of open spaces of sporting, recreational, amenity or nature conservation value including those shown on the Proposals Maps, for other forms of development. The loss of open space will only be considered acceptable where:

- **the retention or enhancement of existing facilities in the area can best be achieved by the redevelopment of part of the site where this would not affect its sporting, recreational, amenity or nature conservation value or compromise its setting; or**
- **replacement open space of the same type and of at least equal quality, community benefit and accessibility to that being lost will be provided within the local area; or**
- **it is demonstrated through an open space audit that there is an identified excess of open space provision in the local area to meet existing and future requirements taking account of the sporting, recreational and amenity value of the site.**

PAN 65: Planning and Open Space

Types of Open Space: -

Public parks and gardens – Areas of land normally enclosed, designed, constructed, managed and maintained as a public park or garden;

Private gardens or grounds -Areas of land normally enclosed and associated with a house or institution and reserved for private use;

Amenity greenspace -Landscaped areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons i.e. road verges, or greenspace in business parks, and used for a variety of informal or social activities such as sunbathing, picnics or kickabouts;

Playspace for children and teenagers - Areas providing safe and accessible opportunities for children's play, usually linked to housing areas;

Sports areas – Large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports i.e. playing fields, golf courses, tennis courts, bowling green; areas which are generally bookable;

Green corridors – Routes including canals, river corridors and old railway lines, linking different areas within a town or city or part of a designated and managed network and used for walking, cycling or horse riding, or linking towns and cities to their surrounding countryside or country parks. These may link green spaces together;

Natural/semi-natural greenspaces – areas of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland and wetland areas;

Other functional greenspaces allotments, churchyards and cemeteries;

Civic space – squares, streets and waterfront promenades, predominantly of hard landscaping that provide a focus for pedestrian activity and make connections for people and for wildlife, where trees and planting are included.

Trees on Development Sites

3.15 The importance of trees and treelines on development sites should not be underestimated. They can make a substantial contribution towards the overall amenity and integration of new development into the environment and the layout of development proposals should, wherever possible, accommodate trees and treelines worthy of retention.

3.16 A full tree survey may be required to accompany planning applications on sites with existing trees so that the impact of the development on existing trees can be fully assessed. Care should also be taken to avoid damage to trees on sites adjacent to the proposed development. Additional guidelines on this matter are contained in Angus Council Advice Note 22: The Survey of Trees on Development Sites.

Policy ER7 : Trees on Development Sites

Planning applications for development proposals affecting sites where existing trees and hedges occur and are considered by Angus Council to be of particular importance will normally be required to:

- (a) provide a full tree survey in order to identify the condition of those trees on site;
- (b) where possible retain, protect and incorporate existing trees, hedges, and treelines within the design and layout;
- (c) include appropriate new woodland and or tree planting within the development proposals to create diversity and additional screening, including preserving existing treelines, planting hedgerow trees or gapping up/ enhancing existing treelines.

In addition developers may be required to provide an Arboricultural Methods Statement, a Performance Bond and/or enter into Section 75 Agreements.

Gapping up

Planting up gaps in hedgerows. This ensures that the hedgerow will retain both its ecological and historical value.

ANGUS COUNCIL

COMMUNITIES
PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

15/00337/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

17	04	15
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Comments for Planning Application 15/00337/FULL

Application Summary

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Jonathan Lowe

Address: 4 Soyaux Avenue Monifieth Dundee

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I strongly support this application. The applicant visited me several months ago advising me of his intention to submit this application. At the time I looked over the proposal and given that it affected me in no way whatsoever I told him, I supported it.

Contrary to the below comments this land is owned by Greenbelt. The transfer of ownership occurred some years ago between Betts and Greenbelt. All residents were notified of this. All the residents of Ashludie Gate have access and the right to use the land for recreation. However, given the small size and location of this land and the fact it is almost completely surrounded by fence it is used by no-one. It is simply maintained by Greenbelt at the expense of the residents. It is also an area which is quite hidden and cut off from the main green space in the development, making it ideal for unsocial behaviour. I would welcome this land being transferred into private ownership and removed from ownership of a factor (Greenbelt). The monthly payments made by the residents should reduce in turn, albeit by a tiny amount given the small size of this land. I am aware that this land is not being gifted to the applicants and in fact it is costing them a substantial sum to obtain this land from Greenbelt.

I fully support the application as it does not adversely affect anyone in the entire development. Having spoken to some of my neighbours none of them have taken the time to support this application officially as, at the time the applicant visited us most of the residents acknowledged the proposal and supported it. Beyond that initial support for the application, most residents really don't care as it doesn't affect them. The land is not used by anyone.

I happened to look up the application today and was surprised by the objections which made me write this note in support.

Comments for Planning Application 15/00337/FULL**Application Summary**

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Euan Falconer

Address: 28 Alexander Gordon Drive Monifeith Angus

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am writing to support the application for change of use. The green space behind houses 20-25 Alexander Gordon Drive would be far more suitable as garden space for the residents and their children. At the moment the proposed site is cut off from the residents, has no through pathway and is hidden from view. I would rather the land was used for the enjoyment of the residents of 20-25 Alexander Gordon Drive rather than keeping an area which encourages unsociable behavior and has no productive purpose.

Comments for Planning Application 15/00337/FULL

Application Summary

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr D Comb

Address: 1 Alexander Gordon Drive Monifieth Angus

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am in strong support of the above application. I see no reason for objection to the purchase of this land by the residents of 20-25 Alexander Gordon Drive. It was clearly explained to me some time ago that these homeowners were intending to purchase the land from Greenbelt Group and at that point I was in support of their proposals. I continue to remain in support of this. As far as I am concerned this area of land is never or very rarely used by other residents of the estate. I am unsure why this irregular shaped, secluded area of land was left for use of amenity in the first instance as it is clearly unsuitable for this purpose. There are much larger areas of green space within the estate which are better suited to the purpose of amenity and are regularly used as such.

Comments for Planning Application 15/00337/FULL

Application Summary

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Stewart Kelly

Address: 15 Alexander Gordon Drive Monifieth Dundee

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: We would like to offer our support for the application.

Our house also borders the Ashludie site, although does not have the strip of land concerned behind it, we do overlook it though and therefore feel well qualified to make our comments known, unlike some objectors who live in a different street completely.

I feel the sensible way forward with this, is to grant the residents concerned the permission to purchase this piece of land. Why?

1/ Recently the piece of land in question has been a hiding place for youths indulging in anti social behaviour (we have witnessed this).

2/ The small slice of land serves no useful purpose other than a dog toilet (go and check yourself, but watch your feet)

3/ There is a likelihood that once the land is developed in Ashludie hospital, this piece of land will become a problem for access for maintenance purposes (concerns were voiced regarding this at a recent community council meeting, with no clear solutions).

In summary we can see no logical nor practical reason for any objections to this proposal, and will be extremely disappointed if the proposal does not go ahead.

Comments for Planning Application 15/00337/FULL

Application Summary

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Mark Keir

Address: 1 Soyaux Avenue Monifieth

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I strongly support this application and am at a loss as to why anyone, particularly someone who doesn't even live in the same street, would object. In the 9 years we've lived, very happily, in Ashludie Gate, I think I've only seen this area of land once, back in 2008 while I was stealing folk's washing off the whirly-gigs in Alexander Gordon Drive. It's simply of no consequence to anyone apart from the residents immediately adjacent to it.

The suggestion that the granting of the application is "dangerous" and will result in some sort of 'Land-Anrarchy' where we all get the sandbags out and fix-bayonets to defend our own tiny area of green-space is, quite frankly, ridiculous. It's a couple of metres of extra garden for the kids of the residents concerned to play in, nothing more, nothing less.

However, in the interests of fairness, I would like to propose a Winner-Takes-All game of Foxy (or British Bulldogs if yer no fae Stobie). The contest will take place a week on Sunday under the tree at the top of Soyaux Avenue, an area, incidentally, I plan to annexe at some point in the future and turn into a bowling-alley/zap-zone facility for the kids.

Regards

Mark Keir

Comments for Planning Application 15/00337/FULL

Application Summary

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Leonard Malloy

Address: Pavillion House, 4 The Stables, Park View Monifieth, Dundee DD5 4GB

Comment Details

Commenter Type: Miscellaneous

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Whilst my property is not part of the Ashludie Gate estate, it does border the general Ashludie site and I share the applicants' concerns with respect to potential anti-social behaviour. We have been the subject of such inappropriate behaviour in the form of small gangs of youths congregating on the site, littering and general noise just over our fence.

I also note that there seems to be some suspicion that the small parcel of land in question is to be 'donated' to the applicants - I sincerely doubt that. Previous experience tells me that, aside from the significant legal and associated fees involved in land transfer, no developer/landowner would be so generous.

Whilst concerns have been expressed about preserving green space, it is worth noting that the number of homes to be built on the site has dramatically increased from the original recommendation of 50-74 to the current proposal of 164. I will suggest that, in addition to preserving the existing trees, mature bushes and established plants, reducing this high density of housing is a far bigger issue. There is no doubt that the peace & privacy previously enjoyed by all residents bordering the old Ashludie Hospital site will be dramatically compromised if the draft plans are approved.

Comments for Planning Application 15/00337/FULL**Application Summary**

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Graham Ross

Address: 15 Soyaux Avenue Monifieth

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I write with regard to the above and would wish to object to this proposal; the reasons for this objection are as follows:

I am unsure how these properties at 20-25 Alexander Gordon Drive have any right to this land and would question the legality of this, they are applying for something they do not own. I am very conscious that this area in question is only one of a number that other residents, should this be approved, will seek for their own purposes, detracting from the development for the others.

At present, 52 households at Ashludie Gait have the right to this land, should this go ahead only 6 of the 52 properties will have rights to this area of land.

The supporting information from the applicant is largely wrong, this ground is used and will likely be used more as the planning app ref: 15/00099/FULM will limit green space amenity within the local area.

I would counter the applicants supporting information, as follows:

The applicant suggests that this area is small and unused but the new development will likely make it of more value and use to those in the area, notwithstanding the fact that it is presently used.

Should this be approved, a precedent will have been set, other areas may follow.

Greenbelt maintains this land and should this Company no longer maintain it, it will certainly not be reflected in the other resident's monthly payments should this application be approved. I am not

sure how the applicant believes that this supports their application.

The anti social behaviour is one that I am not aware of and I would suggest that this is not the case.

I am unsure how the reference to Aderlay supports this application in anyway.

I do not believe that the applicant has the support he declares; again this I would suggest is not the case.

For the reasons given above I strenuously object to it.

Comments for Planning Application 15/00337/FULL

Application Summary

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Don MacInnes

Address: 14 Soyaux Avenue Monifieth

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We strongly oppose the application as set out in ref 15/00337/FULL.

I am pleased to see that there is little if any support for this change within the estate; I am also impressed with the material that my neighbours have prepared and carefully presented in objection to the planning application. I would agree with all points raised.

The key argument as I see it is the change to the functional role of land that has made Ashludie Estate such a positive environment for all the families that have and are growing up here. There is a question of fairness and legal standing but my objection is to reducing the green space; an aspect of the estate that has underpinned the safe and fun environment we enjoy.

Thanks

Don MacInnes.

Comments for Planning Application 15/00337/FULL**Application Summary**

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr S Murphy

Address: 10 Alexander Gordon Drive Monifieth

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to oppose the conversion of the greenbelt land to private garden ground.

I was initially one of the 49 residents in favour in the initial survey, but i don't feel that the full facts of the proposal were presented.

The fact that the applicants are to obtain land for free was not put forward. Since all of the residents contribute to the upkeep of the greenbelt land it seems unfair, that the only the applicants should benefit from the transfer of the land.

In regards to the concern of the over the space encouraging and creating unsociable behaviour, this is not something i am aware of, and this was not mentioned when seeking our approval.

In the proposal it is stated that it will save time and money for Greenbelt Ltd who currently cut the grass within the space. That may be the case but we have had no information if this cost saving will be passed onto the residents reducing our monthly fees.

One of the points put forward in the initial survey was that it was not known to be part of our greenbelt land and the current open space is disused and unsuitable for its intended purpose and that the change of use will allow for a more appropriate use of the space, benefiting the residents.

It appears to me that the proposal only benefits the applicants not all the residents, other uses for the land eg. a garden or a children's play area would be of more benefit to the residents than the current proposal.

I am also concerned that this would set a precedent for more greenbelt land to be sold off in

Ashludie Gate, and I feel that this proposed development of greenbelt land is not in line with the councils own public open space policy.

Comments for Planning Application 15/00337/FULL**Application Summary**

Application Number: 15/00337/FULL

Address: Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth

Proposal: Change of Use from Open Space to Private Garden Ground.

Case Officer: Ruari Kelly

Customer Details

Name: Mr Barry Hudson

Address: 31 Alexander Gordon drive Monifieth Dundee

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: My concerns are as follows:

Have all the residents, when providing the majority approval stated in the supporting documents, been provided with the right information to make an informed decision? To obtain this, both positive and negative information should have been provided which in this case only information to the benefit of the application was provided to the estate owners. Issues include the following:

Who owns the land and has this been substantiated? My understanding was the owners in the estate owned it or had say over the said land and Greenbelt maintained it with the estate owners paying a monthly fee. I may have this wrong but would a final value need to be placed on the land and a appropriate payment made to the owners, whoever that may be? If that is the estate owners should that have not been made clear to all? Also the supporting documents stated 3 that were not in support of the application, so would this not have an impact?

Would all the owners deeds need to be changed as what I have bought as per site plans may change?

3. Precedence - if this application is approved what impact could this have on the other grass areas within the estate which estate owners join on to. Again this has not been made clear to or even considered by most other owners as part of the process to date. I personally am worried about this as other areas are used by the children to play on and this proposed application could have an impact on other areas of grass around the estate. Could other developers request change of land use..I.e current developments at Ashludie hospital grounds. The Ashludie plan has access rights to the green areas so could they apply to obtain these prices of land? Does this access have an impact on Greenbelt fees and the Ashludie development house owners having to contribute to the ongoing fees? Others houses within our estate back and front on to green areas so will they be able to ask for change of use depending on the outcome of the application?

4. The land as per the applicants could have other uses which have not been considered. For

example could be used as an allotment for estate owners to use or children's play equipment? My point here is that the supporting documents state the land has little other uses?

5. From examination of the Ashludie development it appears that access to areas of green space at Ashludie may be via this area which is being applied for by the applicants? Can you assure this will not have an impact on that?

6. Does reducing Greenbelt area contravene original percentage of green land areas as when original houses were built?

Will these issues be answered publicly and made aware to all the house owners within our estate?

Dr Stewart and Dr Fiona Fyffe
 6 Soyaux Avenue
 Monifieth
 Angus
 DD5 4HE

The Service Manager
 Angus Council
 Communities
 Planning & Place
 County Buildings
 Market Street
 Forfar
 DD8 3LG

RECEIVED

23 APR 2015

1451 J

20th April 2015

Dear Sir/Madam,

We would like to strongly oppose the proposed change of use of land from open space to private garden space in Alexander Gordon Drive, Monifieth – REF 15/00337/FULL

When a representative from one of the properties seeking permission came to our door and explained the situation, we were initially sympathetic and supported their proposal. However, upon receipt of the plans from Angus Council, it appears we were misled by them in two ways:

1. It was explained that the land they wished to convert into their garden space behind their houses was a very small area containing densely planted trees, which was preventing light into their gardens. Having seen the plans, the residents are seeking consent for the change of use of a significant portion of Greenbelt allocated parkland to increase the size of their gardens, not the tiny wedge of land that was portrayed to us. Had we known this we would never have supported their proposal, as the Greenbelt land is a shared commodity owned by the entire population of the estate.
2. It was also implied to us that the residents would be purchasing the land from Greenbelt at the current market rate and therefore would be paying for additional land to the rear of their houses. We disagree that a small number of residents should be essentially "gifted" this land to increase their property value at the expense of other residents.

Other points:

- The land is designated as Greenbelt to prevent the building of properties on this land and keep the parkland "feel" of the estate. By accepting the proposal of a change of use, a significant area of parkland in the Ashludie Gate complex will be lost forever.
- This area of parkland is a safe area for families to visit with young children, away from cars. It is therefore a vital commodity in the Ashludie Gate complex.
- Monifieth real estate is expensive. If the residents in question wished to purchase the land at the current going rate, with the income distributed evenly to all other residents, then we would be more sympathetic. However, every

resident in the housing estate pays to have this area of parkland maintained and will encounter no reduction in our community maintenance fees if these residents are allowed to incorporate the land into their gardens.

- If this area of Greenbelt land is allowed to disappear, it sets a very dangerous precedent anywhere else on the housing estate. Potentially, all Greenbelt areas of land could disappear, diminishing the look and feel of the estate.
- The proposed plans for new houses adjacent to this parkland show an area of similar makeup to ours in Ashludie Gate. It would therefore make sense for the Ashludie Gate parkland to remain unchanged and therefore provide a larger defined space between the two estates.
- We feel that it is completely unfair that 6 properties should benefit from a commodity that belongs to every resident of the housing estate. If this proposed change of use is upheld, then six properties will see a dramatic increase in their values with every other resident losing out on a valuable area of parkland and therefore potentially reducing their property values.

Yours Faithfully



Dr Stewart and Dr Fiona Fyffe

LeslieA

From: KellyR
Sent: 11 May 2015 08:58
To: LeslieA
Subject: 15/00337/FULL

From: Russell
Sent: 08 May 2015 16:24
To: KellyR
Subject: FW: Ashludie Developments

From: David Morgan [REDACTED]
Sent: 06 May 2015 16:19
To: Ewan Peacock
Subject: Re: Ashludie Developments

Ewan,

Forgive the late response but I have been a bit submerged with work. 3 days off and lots of catch up!

At present our layout is undergoing some fine tuning in response to comments and feedback from numerous parties - yourself included. . Thus far we have adjusted our plots that backed on to the area in question you raised when we met . As a responsible developer, our ethos is to ensure we listen and act responsibly to representations and try to ensure we have a positive impact upon communities where we build.

In consideration of your proposal Miller has no objection to the proposal and would support the principle insofar as you are now seeking to incorporate the area into garden ground and thereby removing a source of community concern. As I refer to above above, the area of reciprocal open space we had shown on our layout previously has been similarly incorporated into plot gardens. Collectively the combined effect will hopefully remove the threat from ongoing anti social behaviour.

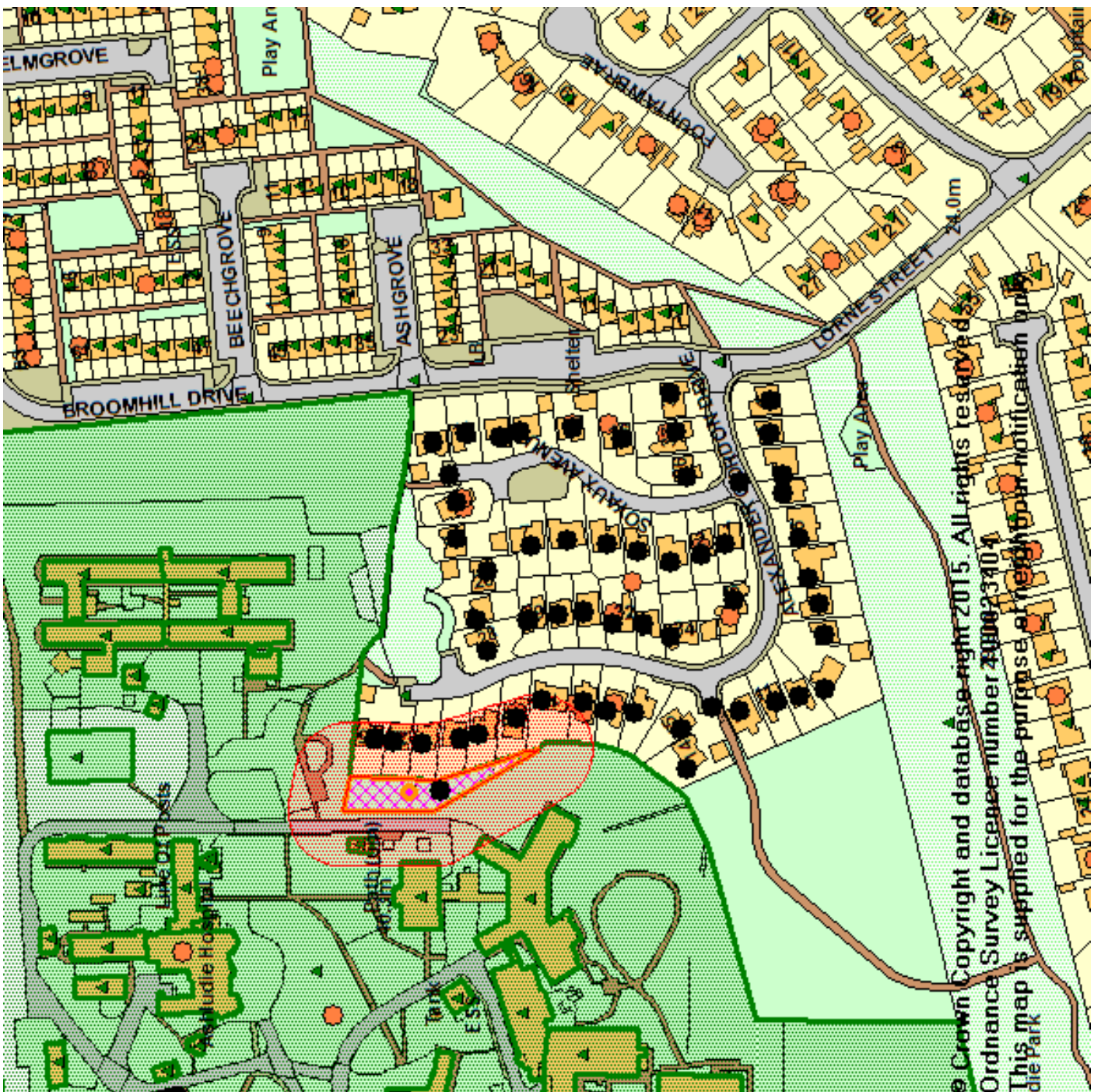
I hope this is of assistance.

Regards

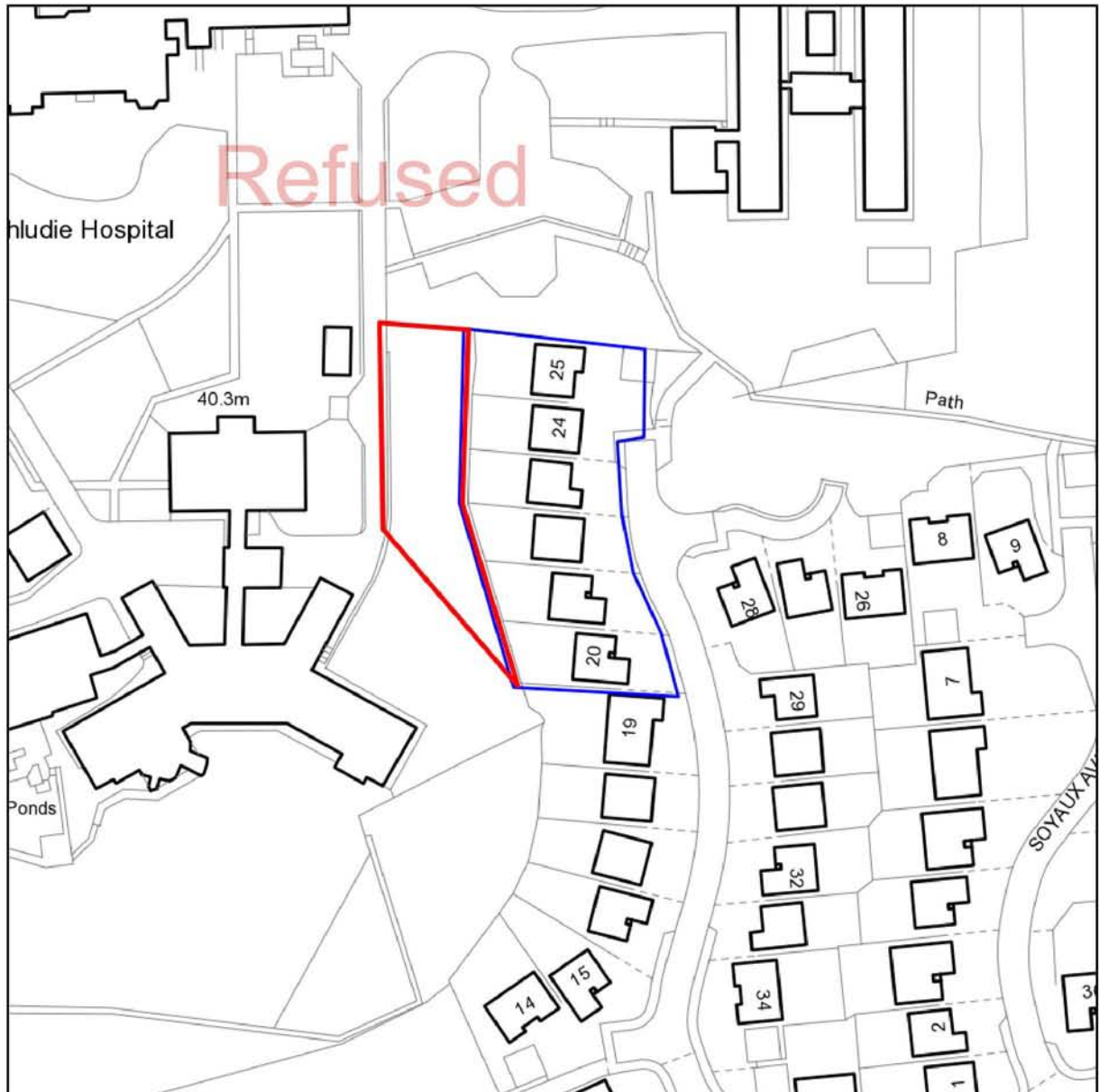
David

David Morgan | Land Director | Miller Homes
T : 0870 336 5167 | M : 07894 968624 | www.millerhomes.co.uk
Miller House, 2 Lochside View Edinburgh Park, Edinburgh EH12 9DH

the place to be



22 ALEXANDER GORDON DRIVE, MONIFIETH, DUNDEE, DD5 4HD



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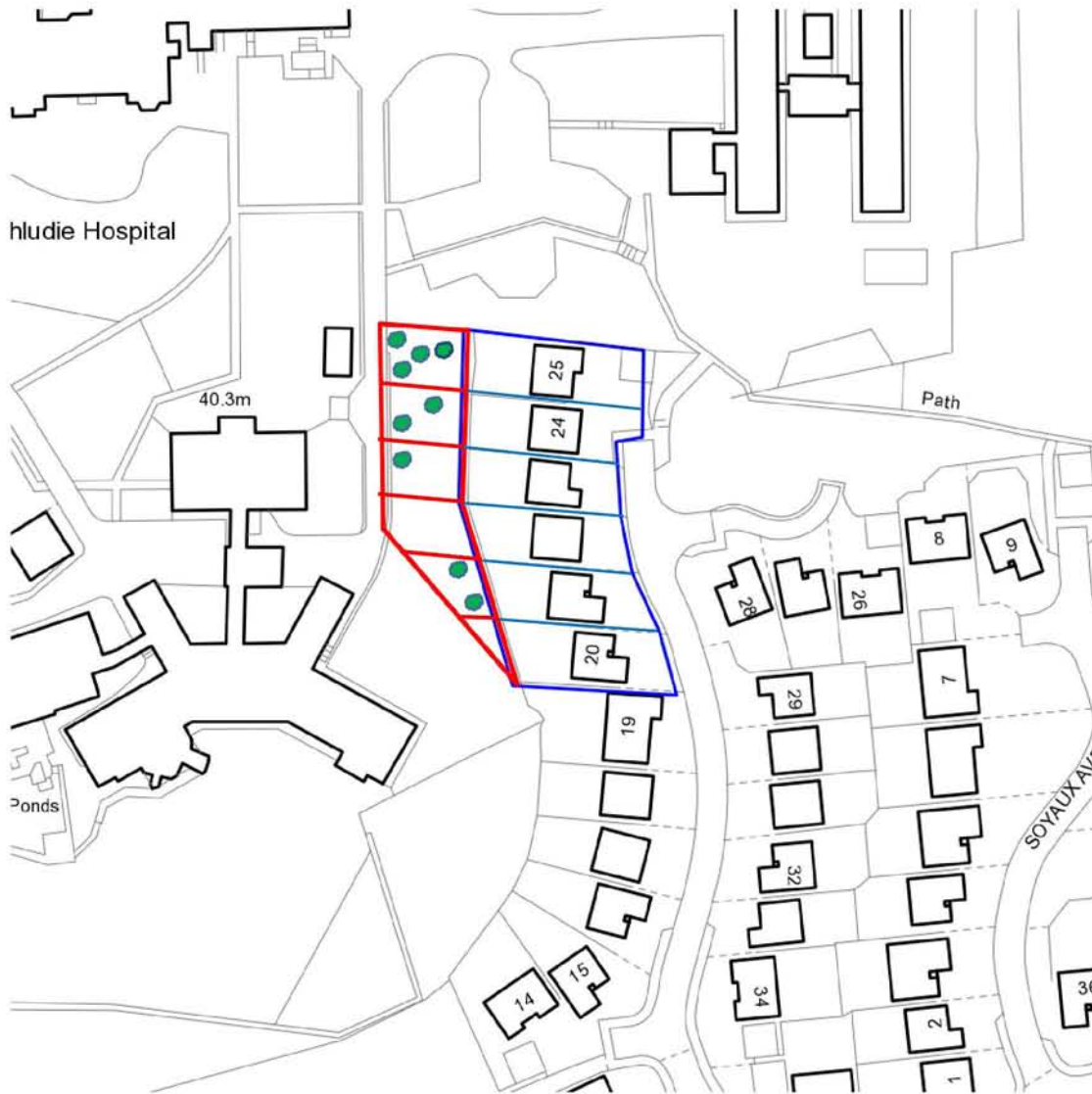
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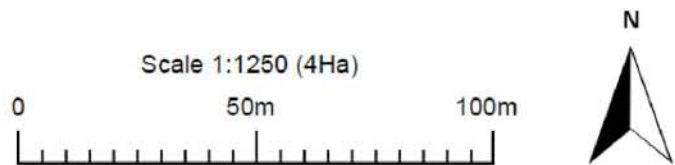
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Refused



Key

-  Trees on site
-  Proposed new extended site boundaries
-  Individual house ownership boundaries



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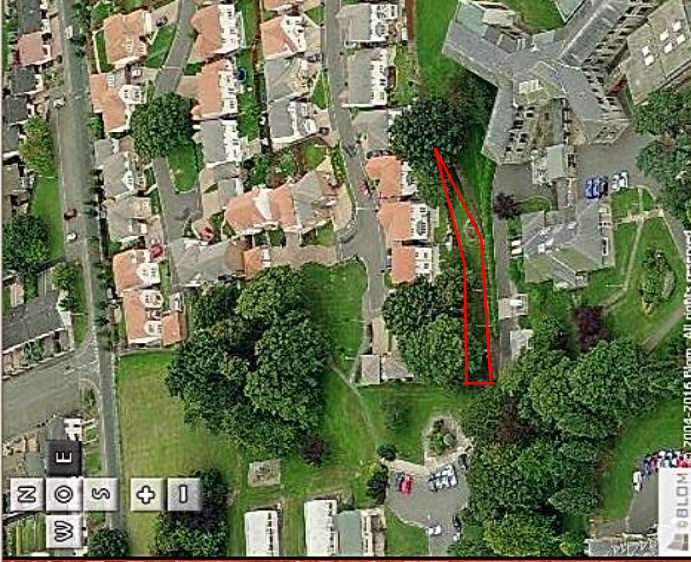




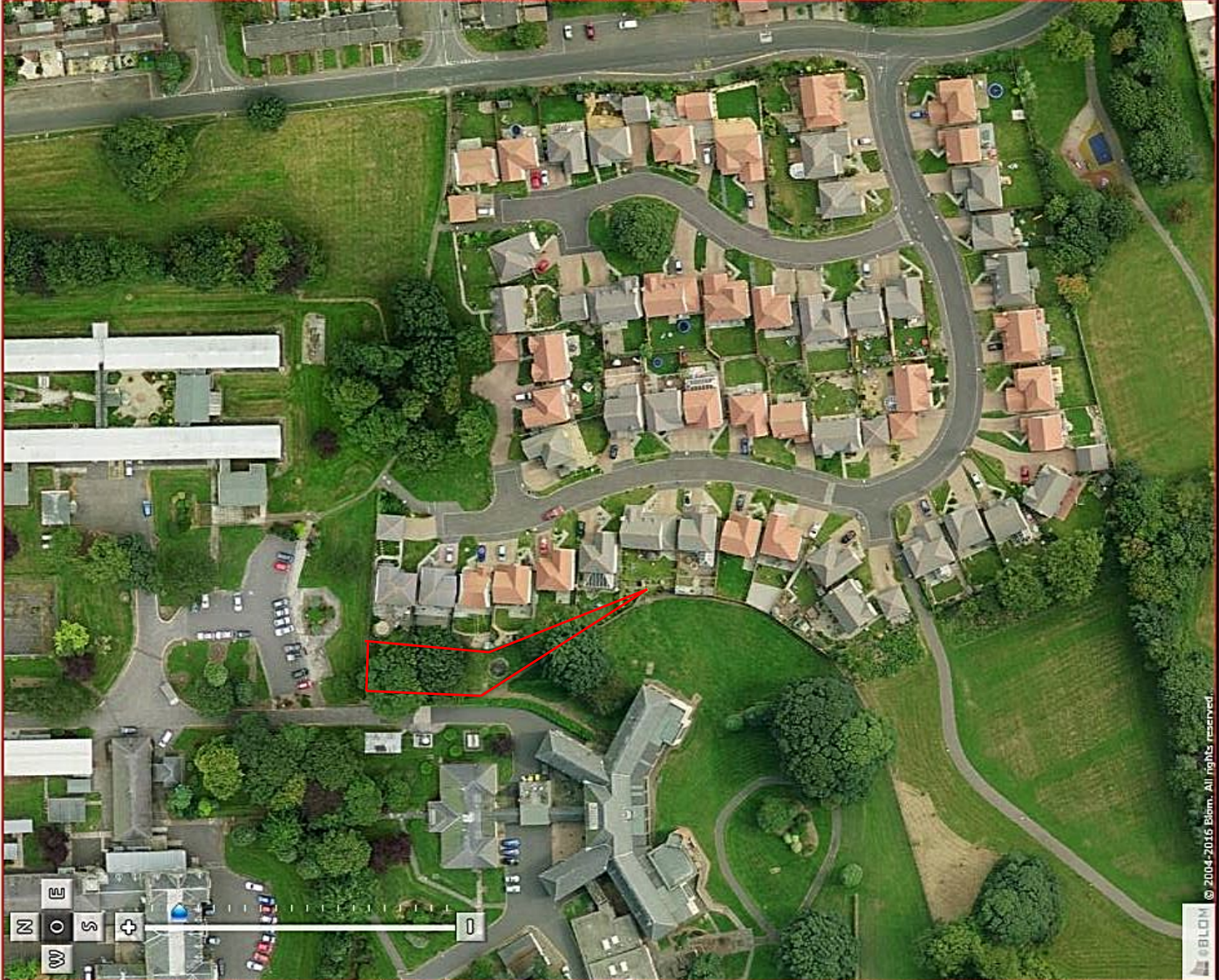


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AC19



149

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE 15/00337/FULL

To **Mr Russell Duncan**
22 Alexander Gordon Drive
Monifieth
DD5 4HD

With reference to your application dated 7 April 2015 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Change of Use from Open Space to Private Garden Ground at Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth for Mr Russell Duncan

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docqueted as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

- 1 That the application is contrary to Policy SC32 of the Angus Local Plan Review 2009 as the proposed development would result in the loss of an open space area of amenity value.
- 2 That the proposal would establish an undesirable precedent that would make it difficult for the planning authority to resist similar applications for the loss of amenity open space areas which would be detrimental to the overall character and amenity of the area.

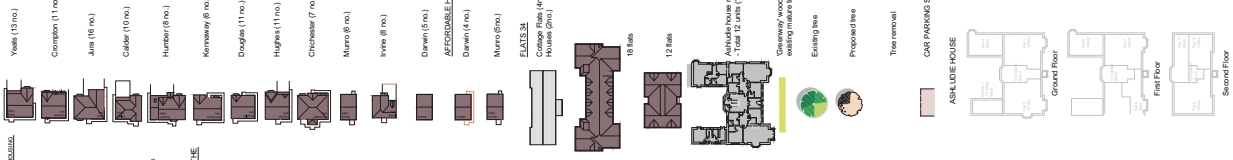
Amendments:

The application has not been subject of variation.

Dated this **25 September 2015**

Iain Mitchell - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

Developed Area = 56,120
Site Area - 81,447m² (20.1 acres)
69% Developed Area



NOTES

1. ALL HOUSES TO BE A MINIMUM OF 1m FROM THE PLOT BOUNDARY.
2. ALL HOUSES TO BE A MINIMUM OF 2m FROM THE ADJACENT PLOT BOUNDARY.
3. ALL HOUSES TO BE A MINIMUM OF 3m FROM THE ADJACENT PLOT BOUNDARY.
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19. ALL HOUSES TO BE A MINIMUM OF 19m FROM THE ADJACENT PLOT BOUNDARY.
20. ALL HOUSES TO BE A MINIMUM OF 20m FROM THE ADJACENT PLOT BOUNDARY.



SKETCH PROPOSED SITE PLAN
SCALE 1:1000

SCALE	1:1000 @ A1	DRAWN BY	MJT
DATE	March 2015	CHECKED BY	GM
DRAWING NO.	22655 P 01	REVISION	Rev N

McLAREN MURDOCH & HAMILTON
 CHARTERED ARCHITECTS
 PARTNERS: PHILIP TAYLOR, JAMES HAMILTON, SUE MURDOCH
 11-13, BARRINGTON STREET, DUBLIN 2, IRELAND
 TEL: 01 224 5000, FAX: 01 224 5001
 www.mclarenmurdoch.com

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20-25 Alexander Gordon Drive
Monifieth
Angus
DD5 4HD

06th April 2015

Dear Sirs,

I am acting on behalf of the residents from 20-25 Alexander Gordon Drive in the hope of changing the use of the public space to the west of our houses to private garden ground. We are in negotiations with the land owners (Greenbelt Ltd) and one of Greenbelt Ltd's requirements was that we obtained Full Planning Permission and we sought majority approval from the 52 residents of the estate, which we obtained 49 properties in support.

One of the key reasons for the high majority of support for the change of use was due to the area being largely unknown by the residents. Further to this, the amount of existing greenspace within the development is more accessible and usable as the green space in question is relatively small, has no through link, and is fenced off at both sides making it unsuitable with only one entrance and exit. Over the last few years there has been an increasing concern from the local residents over the space encouraging and creating unsociable behaviour due to its secluded, private and restrictive location. The proposal will not infringe on development at Ashludie Hospital as the land is out with their ownership and the proposed garden ground will follow the pattern of development within Alexander Gordon Drive and the proposal within Ashludie Hospital. There is a selection of surrounding gardens with similar shaped, linear garden grounds such as Adderley Terrace and Adderley Crescent, therefore following the existing pattern of development. To clarify, the fencing proposed would be a continuation of the existing fencing.

Overall, the current open space is disused and unsuitable for its intended purpose. The change of use will allow for a more appropriate use of the space, benefiting the residents, reducing concern and worry over unsociable behaviour and saving time and money for Greenbelt Ltd who currently cut the grass within the space.

Previously it was stated to me that the fee was £382 plus £100 advert fee. I am now aware the fee has increased, therefore I have I have paid £501, £401 for the Change of Use and £100 advert fee. Please do not hesitate to contact me if this is not correct.

Yours Sincerely,

Russell Duncan

Russell Duncan

ADDITIONAL SUPPORTING STATEMENT

Russell Duncan

22 Alexander Gordon Drive

There are a couple of points I would like to clarify regarding our planning application:

1.The residents of both Alexander Gordon Drive and Soyaux Avenue do not have title to any of the communal green belt areas within the estate.The owners of the land are in fact Greenbelt Holdings Ltd.

2.Contrary to various rumours being spread about the 6 applicants No 20-25 Alexander Gordon Drive getting the land for free or somehow being “gifted” the land from Greenbelt Holdings Ltd, **nothing could be further from the truth.** After obtaining approval from 49 residents it took sometime to decide whether the expense of purchasing the land could be justified.

As this transaction is a private matter between 6 individuals and a public company, it would be wrong of me to discuss the exact details.However, I can assure everyone that between paying the market rate for the land and incurring both sides legal costs this will become a very expensive purchase.

All the applicants eventually felt this was a price worth paying to secure the land and try to eliminate the unsociable aspects that this land is currently experiencing.

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

**CHANGE OF USE FROM OPEN SPACE TO PRIVATE GARDEN
GROUND AT LAND TO THE REAR OF 20-25 ALEXANDER GORDON
DRIVE, MONIFIETH**

APPLICATION NO 15/00337/FULL

APPLICANT'S SUBMISSION

- | | |
|----------------|-------------------------------------------|
| ITEM 1 | Notice of Review |
| ITEM 2 | Location Plan 2 |
| ITEM 3 | Pre-Application Advice |
| ITEM 4 | Additional Supporting Statement |
| ITEM 5 | Applicant Response to Points of Objection |
| ITEM 6 | Supporting Statement |
| ITEM 7 | Neighbour Notification Letter |
| ITEM 8 | Application Form |
| ITEM 9 | Decision Notice |
| ITEM 10 | Appeal Supporting Statement |
| ITEM 11 | Title Deeds Plan |



County Buildings Market Street Forfar DD8 3LG

Tel: 01307 461460

Fax: 01307 461 895

Email: plnprocessing@angus.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 000113345-006

The online ref number 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

Applicant Details

Please enter Applicant details

Title: *

Other Title:

First Name: *

Last Name: *

Company/Organisation:

Telephone Number: *

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

You must enter a Building Name or Number, or both:*

Building Name:

Building Number:

Address 1 (Street): *

Address 2:

Town/City: *

Country: *

Postcode: *

Site Address Details

Planning Authority:

Angus Council

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

Address 1:

22 ALEXANDER GORDON
DRIVE

Address 5:

Address 2:

MONIFIETH

Town/City/Settlement:

DUNDEE

Address 3:

Post Code:

DD5 4HD

Address 4:

Please identify/describe the location of the site or sites.

Northing

733167

Easting

349620

Description of the Proposal

Please provide a description of the 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)

Change of use from open space to private garden ground.

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 of 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.

It is felt that a fair decision has not been reached. Scottish Government are striving towards improved timescales for planning decisions, the current example is a very poor reflection of this.

The application was submitted on the 7th April. A final decision was not reached until 25th September. The current open space is unused and unsuitable for its intended purpose. The COU will allow for an appropriate use of the space, benefiting the residents, reducing concern over unsociable behaviour.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? *

Yes No

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)

Location plan 2
Pre application advice
Additional supporting statement
Applicant response to points of objections
Supporting statement
Neighbour notification letter
Application form
Decision notice
Appeal Supporting Statement
Titles Deeds Plan

Application Details

Please provide details of the application and decision.

What is the application reference number? *

15/00337/FULL

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

07/04/15

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

25/09/15

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.

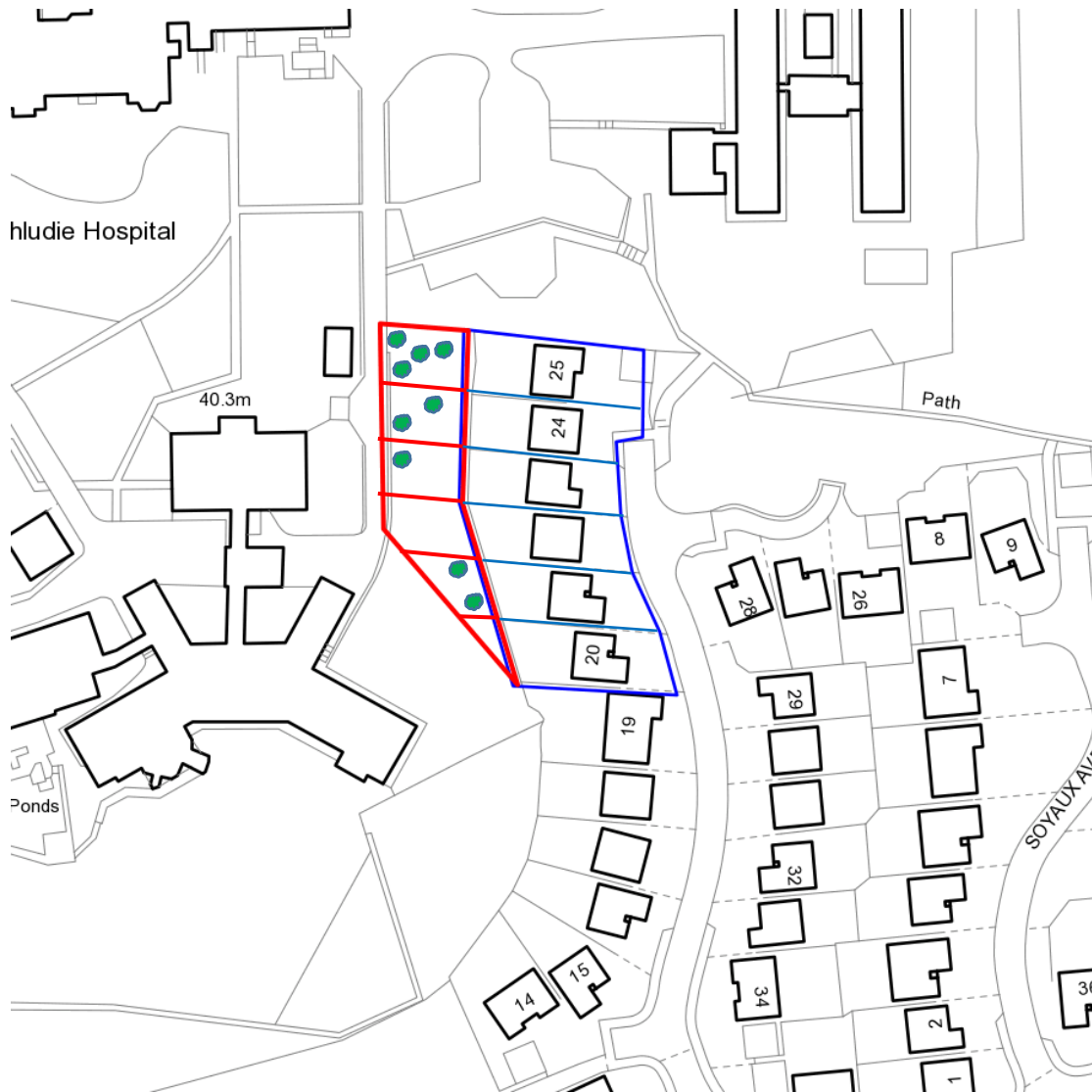
Declare - Notice of Review

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




Declaration Name: Mr Russell Duncan

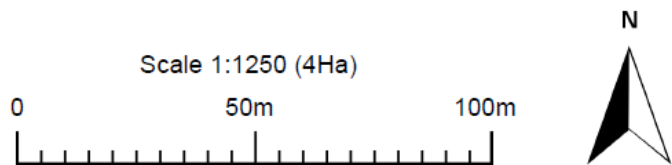
Declaration Date: 15/12/2015

Submission Date: 15/12/2015



Key

-  Trees on site
-  Proposed new extended site boundaries
-  Individual house ownership boundaries



Due to OS licensing conditions, you/your agent may only use this map for official Planning purposes. If you wish to use the map for other uses, you must first obtain a separate licence from OS.

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From: "KellyR" <KellyR@angus.gov.uk>
Date: 6 June 2014 15:08:10 BST
To: "Gemma Cathcart" <[REDACTED]>
Subject: RE: FW: Possible Land Adoption Ref 1297 Ashludie Gate, Monifieth

Dear Ms Cathcart

I refer to your email in respect of the above proposal which was received by this Service on 5 June 2014.

Having studied your request I can advise you that a formal planning application would be required to incorporate the open space into the garden ground of the respective properties as it involves a change of use of the affected land to private garden ground.

One planning application can be submitted for the entire area to the rear of 20 – 25 Alexander Gordon Drive for 'Change of Use from Open Space to Private Garden Ground'. The cost of an application would be £382 and an additional fee of £100 will also be required. The £100 would be required as the application would have to be advertised in the local press because there is neighbouring land which requires neighbour notification but there are no buildings on the land to which the neighbour notification can be sent by Angus Council. The Town and Country Planning (Charges for Publication of Notices) (Scotland) Regulations 2009 indicate that the Council is required to charge the cost of that advertisement to the applicant.

Application forms and guidance notes can be obtained from the following link (**Planning Permission Forms Package & Planning Permission Guidance Note**):

<https://eplanning.scotland.gov.uk/WAM/paperforms.htm?jsessionid=F59933C5A4DD2FA00A09F818D1A98CF1>

In terms of whether planning permission would be granted I would indicate any planning application will be considered against the provisions of the development plan. Planning legislation indicates that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.

In this case the development plan comprises: -

- TAYplan (Approved 2012)
- Angus Local Plan Review (Adopted 2009)

Angus Local Plan Review

Policy S1: Development Boundaries

Policy S6: Development Principles

Policy SC32: Open Space Protection

The policies identified above would be relevant in the determination of a subsequent planning application for a development of the nature described by you. However, you should note that it is not possible to identify all relevant policies and there are likely to be general policies that may be of relevance in considering your proposal. I would suggest that you should examine these documents when formulating your development proposals. The development plan is available to view online at: -

http://www.angus.gov.uk/services/View_Service_Detail.cfm?serviceid=1214

It can also be viewed at Angus Council libraries, Access Offices and at this building. The council's supplementary

planning guidance is also available to view online at: -

<http://www.angus.gov.uk/DevControl/advicenotesintro.html>

There are likely to be a number of matters that will be material to the consideration of any planning application for your development. These are likely to include: -

- compliance with development plan policy;
- compliance with relevant supplementary planning guidance;
- representations from consultees/ third parties;
- compatibility with neighbouring land uses;
- suitability of access/ parking arrangements;
- acceptability of design/ visual impact;
- suitability of drainage arrangements;

The application would relate to the inclusion of a grassed open space area into garden ground, at the rear of 20 – 25 Alexander Gordon Drive. Having studied photography relating to the area in question due to its size and shape the open space is of little sporting, recreational, or nature conservation value. Whilst the open space has some amenity value in terms of contributing to the appearance of the area such contribution is limited and its incorporation into the garden of the identified properties would be unlikely to adversely affect the amenity of the area as there are larger open space amenity areas in the vicinity. As such, the loss of this small area could be considered to be acceptable under Policy SC32.

Whilst enquiries and pre-application discussions are encouraged, it should be stressed that the above advice is given without the benefit of a site visit and

external consultations or full and comprehensive information and as such the expressed opinion is given without prejudice and is not binding upon the Council.

I trust the above proves helpful.

Yours faithfully,

Ruari Kelly

Ruari Kelly | Planning Officer (Development Standards)

Dear Mr Kelly

Myself and the other 5 neighbours are extremely surprised and disappointed at the decision not to support our planning application.

I have listed the points below we feel are relevant to supporting this application:

- Pre-application advice was sought in June 2014 for this proposal and very positive advice was received from yourself which stated: “The application would relate to the inclusion of a grassed open space area into garden ground, at the rear of 20 – 25 Alexander Gordon Drive. Having studied photography relating to the area in question due to its size and shape the open space is of little sporting, recreational, or nature conservation value. Whilst the open space has some amenity value in terms of contributing to the appearance of the area such contribution is limited and its incorporation into the garden of the identified properties would be unlikely to adversely affect the amenity of the area as there are larger open space amenity areas in the vicinity. As such, the loss of this small area could be considered to be acceptable under Policy SC32” The Local Development Plan the pre-application advice was assessed against has not changed and neither has the principle of the proposal. I understand the advice is given without benefit of a site visit, however, the principle of the proposal has never altered, therefore how can it no longer comply with policy? Further to this, had such positive advice not been given to myself and my neighbours we would not have submitted the application and incurred significant, planning, legal and emotional costs that have been involved.
- Policy SC32 of the Angus Council Adopted Local Plan Review states at a number of occasions the importance of open space providing “linkages” to form networks, open spaces, green corridors etc. The existing space provides no through link, contradicting Angus Council Policy and emphasising that this open space does not “seek to ensure that development is accompanied by an appropriate type and level of open space”.
- Paragraph 2.77 of Policy SC32 states the diverse characteristics of open spaces within Angus towns and villages stating open space includes “public parks, coastal links areas, school playing fields, private garden grounds...” therefore the area of land in question will be retained as a key area of open space as garden ground within the area.

- The email dated Friday 12th June states that “the proposed development is unrelated to a recreational use or activity therefore the development of the site into private garden ground for 20 – 25 Alexander Gordon Drive would remove the open space/amenity ground from the housing development”. This proposal is the exact opposite of that, as existing the open space is not used for any recreational purpose due to its layout and nature, the Change of Use would ensure it is used for exactly its intended purpose in the first place, recreational and amenity space for a significant number of households within the development.
- Further to this, it is stated in the email that the houses proposed within Ashludie hospital ground will potentially reduce the unsociable behaviour experienced within the area. The only use for this area has been for unsociable behaviour and even Miller Homes in their latest plans have decided not to increase this area as they do not want to create an even bigger problem. As you are aware Miller Homes supported our application. With the increase in house numbers this area tucked behind the houses will be an even bigger magnet than ever for this type of behaviour. Planning decisions should not be based on the potential for a development to reduce unruly activities as there is no proof of this. Additionally, the three dwellings proposed within Ashludie are separated between the open space and the dwelling houses by garden ground and do not directly overlook the area and therefore, the area will be no more overlooked than currently.
- This area adds no amenity value to any of the residents within the estate. Even the small number of objectors did not suggest that this land had ever been used.
- We have plenty other open space within the estate, there is open space in front of our houses ,open space within Soyaux and a massive open area behind Alexander Gordon Drive which runs seamlessly into ashludie park. The one main upside to this development is that we have an abundance of open space for the use of the residents.

This exercise as you are aware of by all our correspondence has included personally engaging with every single resident of the estate and gaining 95% support ,dealing extensively with the legal owners of the land and providing planning with everything we have been asked to do .This exercise to get all 6 of the neighbours to agree to this process is a “once in a lifetime opportunity” to rectify the problems this open space of land is causing and if planning is not approved none of us will be willing to incur the time and expense again.

We are also all extremely disappointed at the way we have been treated throughout this whole planning application, we have been given pre-planning information which

seems contrary to what you are stating now. We have had our application “suspended” because of an unsubstantiated claim from an objector, we have had problems with the verbal communication throughout this whole process and our decision on our application was late without prior notification.

In summary, we are asking you now to review your decision and support our application in full .Can you also please let me know what the process is from now

If there is any additional information we can provide please call me on 01382 530180 or 07955 196350 ,I am also willing at a moments notice to meet anywhere to further discuss our application.

I have attached your email with the pre application advise.

Thanking you in anticipation.

Russell Duncan

ADDITIONAL SUPPORTING STATEMENT

Russell Duncan

22 Alexander Gordon Drive

There are a couple of points I would like to clarify regarding our planning application:

1.The residents of both Alexander Gordon Drive and Soyaux Avenue do not have title to any of the communal green belt areas within the estate.The owners of the land are in fact Greenbelt Holdings Ltd.

2.Contrary to various rumours being spread about the 6 applicants No 20-25 Alexander Gordon Drive getting the land for free or somehow being “gifted” the land from Greenbelt Holdings Ltd, **nothing could be further from the truth.** After obtaining approval from 49 residents it took sometime to decide whether the expense of purchasing the land could be justified.

As this transaction is a private matter between 6 individuals and a public company, it would be wrong of me to discuss the exact details.However, I can assure everyone that between paying the market rate for the land and incurring both sides legal costs this will become a very expensive purchase.

All the applicants eventually felt this was a price worth paying to secure the land and try to eliminate the unsociable aspects that this land is currently experiencing.

20-25 Alexander Gordon Drive
Monifieth
Angus
DD5 4HD

06th April 2015

Dear Sirs,

I am acting on behalf of the residents from 20-25 Alexander Gordon Drive in the hope of changing the use of the public space to the west of our houses to private garden ground. We are in negotiations with the land owners (Greenbelt Ltd) and one of Greenbelt Ltd's requirements was that we obtained Full Planning Permission and we sought majority approval from the 52 residents of the estate, which we obtained 49 properties in support.

One of the key reasons for the high majority of support for the change of use was due to the area being largely unknown by the residents. Further to this, the amount of existing greenspace within the development is more accessible and usable as the green space in question is relatively small, has no through link, and is fenced off at both sides making it unsuitable with only one entrance and exit. Over the last few years there has been an increasing concern from the local residents over the space encouraging and creating unsociable behaviour due to its secluded, private and restrictive location. The proposal will not infringe on development at Ashludie Hospital as the land is out with their ownership and the proposed garden ground will follow the pattern of development within Alexander Gordon Drive and the proposal within Ashludie Hospital. There is a selection of surrounding gardens with similar shaped, linear garden grounds such as Adderley Terrace and Adderley Crescent, therefore following the existing pattern of development. To clarify, the fencing proposed would be a continuation of the existing fencing.

Overall, the current open space is disused and unsuitable for its intended purpose. The change of use will allow for a more appropriate use of the space, benefiting the residents, reducing concern and worry over unsociable behaviour and saving time and money for Greenbelt Ltd who currently cut the grass within the space.

Previously it was stated to me that the fee was £382 plus £100 advert fee. I am now aware the fee has increased, therefore I have I have paid £501, £401 for the Change of Use and £100 advert fee. Please do not hesitate to contact me if this is not correct.

Yours Sincerely,

Russell Duncan

Russell Duncan

Dear Homeowner,

The residents of 20-25 Alexander Gordon Drive have a small strip of land to the rear of their properties (please see plan attached). At present this land is owned by Greenbelt Group who is the maintenance company involved in maintaining any green space around the Ashludie Gate Estate. This land is currently considered as part of the amenity areas to be used by residents of this estate. The residents at 20-25 Alexander Gordon Drive are seeking to purchase this land and incorporate it into their private garden space.

We have approached Greenbelt Group regarding this and have been informed that this could be considered but first we must seek advice from Angus Council to see if there is a possibility that permission could be granted to change the use of this land from open space to private garden ground. Greenbelt Group also requires that we obtain a majority consensus of the residents from the estate that they do not object to us purchasing this land.

We have sought advice from Angus Council who have informed us of their views on the matter and the next steps which we need to take to secure the change in planning permission.

Before we take this back to Greenbelt we now require the views of the residents of the estate. Therefore, we would ask that you complete the slip attached and return to 22 Alexander Gordon Drive at your earliest convenience. Alternatively one of the residents from the aforementioned properties will call to collect the return slip on Wednesday 13th August 2014 between 6pm and 8pm.

Please do not hesitate to contact any one of us should you require any further information or to discuss this matter in more detail.

We thank you for your time.

The residents at 20-25 Alexander Gordon Drive

 Russell Duncan

I, (print name) _____,
property owner of 1 Alexander Gordon Drive

Agree (please tick as appropriate)

Disagree

to the home owners of 20-25 Alexander Gordon Drive seeking to purchase the land at the rear of these properties, changing the planning permission from amenity to garden space and incorporating said land into their private garden grounds.

Signed _____

Date _____



County Buildings Market Street Forfar DD8 3LG

Tel: 01307 461460

Fax: 01307 461 895

Email: plnprocessing@angus.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 000113345-002

The online ref number 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.

Type of Application

What is this application for? Please select one of the following: *

We strongly recommend that you refer to the help text before you complete this section.

- Application for Planning Permission (including changes of use and surface mineral working)
- Application for Planning Permission in Principle
- Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Change of Use from open space to private garden ground.

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place? (Answer 'No' if there is no change of use.) * Yes No

Have the works already been started or completed? *

- No Yes - Started Yes - Completed

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

Applicant Details

Please enter Applicant details

Title: *	<input type="text" value="Mr"/>
Other Title:	<input type="text"/>
First Name: *	<input type="text" value="Russell"/>
Last Name: *	<input type="text" value="Duncan"/>
Company/Organisation:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text" value=""/>
Fax Number:	<input type="text"/>
Email Address: *	<input type="text" value=""/>

You must enter a Building Name or Number, or both:*

Building Name:	<input type="text"/>
Building Number:	<input type="text" value="20-25"/>
Address 1 (Street): *	<input type="text" value="20-25 Alexander Gordon Drive"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="Monifieth"/>
Country: *	<input type="text" value="UK"/>
Postcode: *	<input type="text" value="DD5 4HD"/>

Site Address Details

Planning Authority:	<input type="text" value="Angus Council"/>
---------------------	--------------------------------------------

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

Address 1:	<input type="text" value="22 ALEXANDER GORDON DRIVE"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="MONIFIETH"/>	Town/City/Settlement:	<input type="text" value="DUNDEE"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="DD5 4HD"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="733167"/>
----------	-------------------------------------

Easting	<input type="text" value="349620"/>
---------	-------------------------------------

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (Max 500 characters)

Ruairi Kelly provided advice on relevant policies and useful information.

Title:	Mr	Other title:	Planning Officer
First Name:	Ruairi	Last Name:	Kelly
Correspondence Reference Number:	1297	Date (dd/mm/yyyy):	05/06/14

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

Please state the measurement type used: Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: (Max 500 characters)

Open space.

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? * Yes No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? *

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) *

Yes No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details:(Max 500 characters)

Refuse storage is already provided within the existing garden grounds of the properties.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land ? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Are you able to identify and give appropriate notice to ALL the other owners? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Certificates

The certificate you have selected requires you to distribute copies of the Notice 1 document below to all of the Owners/Agricultural tenants that you have provided, before you can complete your certificate.

Notice 1 is Required

I understand my obligations to provide the above notice(s) before I can complete the certificates. *

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that -

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or -

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Greenbelt Holdings Ltd Greenbelt Holdings Ltd Greenbelt Holdings Ltd

Address:

Greenbelt Holdings Ltd, McCafferty House, 99, 99 Firhill Road, Glasgow,

Date of Service of Notice: *

17/03/15

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Mr Russell Duncan

On behalf of:

Date: 06/04/2015

Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

Provide copies of the following documents if applicable:

- | | |
|----------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

A Supporting Statement has been submitted explaining the proposed Change of Use.

Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

Declaration Name: Mr Russell Duncan
Declaration Date: 06/04/2015
Submission Date: 06/04/2015

Payment Details

Online payment: 121646

Created: 06/04/2015 20:17

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE 15/00337/FULL

To **Mr Russell Duncan**
22 Alexander Gordon Drive
Monifieth
DD5 4HD

With reference to your application dated 7 April 2015 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Change of Use from Open Space to Private Garden Ground at Land To Rear Of 20 - 25 Alexander Gordon Drive Monifieth for Mr Russell Duncan

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docquetted as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

- 1 That the application is contrary to Policy SC32 of the Angus Local Plan Review 2009 as the proposed development would result in the loss of an open space area of amenity value.
- 2 That the proposal would establish an undesirable precedent that would make it difficult for the planning authority to resist similar applications for the loss of amenity open space areas which would be detrimental to the overall character and amenity of the area.

Amendments:

The application has not been subject of variation.

Dated this **25 September 2015**


Iain Mitchell - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

The residents of 20-25 Alexander Gordon Drive wish to appeal the decision to refuse them planning permission to change the use of land from amenity space to private garden ground.

The reasons for appeal are as follows:

- The residents of 20-25 Alexander Gordon Drive do not feel that a fair decision has been reached.
- The Scottish Government are striving towards improved timescales for planning decisions to be concluded. Our planning application process has demonstrated an extremely poor reflection of this.

We sought pre planning advice on 5th June 2014. We received a response which provided a very positive response to our proposed application. I have attached a copy of this email response for your information. It was advised that “the application would relate to the inclusion of a grassed open space area into garden ground, at the rear of 20-25 Alexander Gordon Drive. Having studied photography relating to its size and shape the open space is of little sporting, recreational, or nature conservation value. Whilst the open space has some amenity value in terms of contributing to the appearance of the area such contribution is limited and its incorporation into the garden of the identified properties would be unlikely to adversely affect the amenity of the area as there are larger open space amenity areas in the vicinity. As such, the loss of this small area could be considered to be acceptable under policy SC32”.

We understand that that pre planning advice is indicative; however the policies which the application was assessed against did not change between the pre planning advice and the submission of the planning application. The land has not been used by any residents of the estate in any sporting or recreational manner prior to, or subsequently after planning permission has been sought. Further to this, had such positive advice not been given to myself and my neighbours we would not have submitted the planning application and incurred significant planning, legal and emotional costs that have been involved.

A planning application was submitted on behalf of the residents in question and this was validated on 7th April 2015. The reason for the delay in submitting the application was the on going negotiations with the current owners of this land, Greenbelt Holdings Ltd, regarding price and their specific requirements for allowing us to purchase this land. These requirements were that we sought legal advice, provided a positive response from Angus Council planning and a majority of positive responses from the 52 neighbouring homeowners within the Ashludie Gate estate. The neighbouring homeowners were each provided a letter detailing our reasons for submitting the planning application and they gave signed responses to this. 49 of which gave their approval for the purchase of this land from the current owners to be used as private garden space. A copy of the letter handed out to our neighbours and the attached plan outlining the area under consideration is included in the appeal documents. Copies of these signed letters were sent to planning by registered post during the application process.

We were given a determination date of 2nd of June 2015. We received final notification of refusal of our planning application, almost 4 months after this date, on 28th September 2015. Despite numerous attempts at communication with the planning department regarding deadlines, these continued to be missed without any notification. We feel that this has had an impact on the final

outcome of our application as, due to the delayed timing of our determination, other development proposals were then taken in to consideration as reasons to refuse our application.

The planning officer indicated to us, in his email dated 12th June 2015, that the Ashludie Hospital development was being taken into account whilst determining the outcome of our proposal. Reference was made to how this development would assist in decreasing the amount of anti-social behaviour which this secluded and unused area of land attracts. The applicants find it unreasonable to assume this since an email was submitted which contained a statement from David Morgan, Land Director at Miller Homes which clearly stated that he was fully supportive of our application and that they were also incorporating similar amenity space into garden grounds on their reviewed site plans. He also clearly states that he would hope that the combined effect would remove the threat of any antisocial behaviour from continuing in this area.

At present antisocial behaviour continues to be an issue for the residents who reside directly in front of the area of land in question. This area has frequently noted to have dog faeces and youths continue to congregate on this land causing a disturbance. As more families move in to the area we can only perceive this becoming a larger issue which will have an adverse effect on the neighbouring housing estate.

During this same email it was mentioned that the proposed application does not make any provision for replacement of open space. As this is not in any way a development, merely a reclassification of existing land we find this a highly unusual suggestion. There are many large, existing areas of amenity space which are currently used by the residents of the Ashludie Gate estate and we would suggest that the amenity space provided, excluding the land being referred to in this application, appears to be a substantially higher percentage per household than the recently approved Ashludie Hospital development which would adjoin the Ashludie Gate estate.

The reasons given for refusal are as follows:

- The application is contrary to Policy SC32 of the Angus Local Plan Review 2009 as the proposed development would result in the loss of an open space area of amenity value.
- The proposal would establish an undesirable precedent that would make it difficult for the planning authority to resist similar applications for the loss of amenity open space areas which would be detrimental to the overall character and amenity of the area.

In reference to the first reason given for refusal, Policy SC32 makes numerous references to the importance of open space providing linkages to form networks, open spaces, green corridors etc. The existing open space provides no through link or pathways, contradicting Angus Council Policy and emphasising that this open space does not “seek to ensure that the development is accompanied by an appropriate type and level of open space.” The lack of through links makes the area appear very unappealing as an area for recreational use as it is intimidating due to its restrictive nature.

Further to this, paragraph 2.77 of Policy SC32 states the diverse characteristics of open spaces within Angus towns and villages stating open spaces to include “public parks, coastal link areas, school playing fields, private garden grounds...” therefore the area of land in question will be retained as a key area of open space as private garden ground within the estate.

With regards to the second reason given for refusal, the applicants feel it is important to point out the unique nature of the area of land in question. The unusual shape and size of this land it makes it very difficult for it to be used for recreational or sporting use. In terms of nature conservation the proposals to change the land to private garden use would not have an adverse effect on this in anyway and the land would still be considered to maintain the character and appearance of the estate therefore will still be classed as amenity space under Policy SC32. The planning department are concerned regarding setting a precedent; however this would not be the first occasion where an area of amenity land within Angus council has been reassigned into private garden space.

The residents involved with this application feel extremely disappointed at the level of service which we have received throughout every stage of the planning process. We were notified that our application was to be suspended due to an unsubstantiated claim from an objector. This resulted in the applicants incurring additional, unnecessary legal costs even though the claim was false. As previously mentioned, every deadline was missed without prior notification and was only explained once contact was made from the applicants to the planning department. The positive pre planning advice we received was completely dismissed and there was never any mention of precedent being taken into consideration at any point throughout this long process. The residents feel that there was a severe lack of communication from the planning department. We were only given responses to our efforts to be kept up to date with the process. During all methods of communication, we tried to encourage some form of engagement however we feel no effort was made on their behalf to involve, or guide, us with this application. We also find it highly unusual that with 49 of the 52 homeowners of the estate in support of this application that the planning department has not fully taken this into consideration and has dismissed the will of the community within the estate.

In conclusion, the current open space is unused and unsuitable for its intended purpose. The incorporation of the land in private garden space will allow for a more appropriate use of the space, reducing concern and anxiety over unsociable behaviour. We would encourage the Local Review Body to visit this site to fully appreciate where this area is located in relationship to other residents, its shape, size and little amenity value it offers to the estate. We therefore urge you to please look favourably upon this proposal.

Yours sincerely

Residents of 20-25 Alexander Gordon Drive

Officer's ID / Date

4450
7/11/2003

TITLE NUMBER **ITEM 11**

ANG25920

REGISTER
NOTLAND

ORDNANCE SURVEY
NATIONAL GRID REFERENCE

Scale

1/1250

Survey Scale

1/1250

NO4932NW NO4932NE NO4933SW NO4933SE

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**FURTHER
REPRESENTATIONS**

ForsythSL

From: Jonathan Lowe ·
Sent: 15 January 2016 17:38
To: ForsythSL
Subject: Application No 15/00337/FULL

Dear Sarah

Thank you for your letter regarding the above application which you advised has been requested to review by Mr Duncan.

Following notification from Angus Council that Mr Duncan's application had been refused I have made a point of visiting the area daily whilst walking my dog to see if the objections that were raised by other residents were valid.

This area has, to my knowledge, never been used for recreation or anything by anyone. It is such a small cut off area from the residential area it serves no purpose. With the recent approval of Miller Homes to commence building a new site in the grounds of Ashludie Hospital, this little area of grass will now be even more pointless and I would actively encourage Mr Duncan's application to be granted.

Contrary to other residents views that this would "open the floodgates" for other areas to be changed to private land, I believe this is not true. No-one else to my knowledge wants to change any other sections of land for private use and if they did, this would be done following the same strict rules Mr Duncan has had to follow. These applications would be dealt with on a case by case basis and if the residents felt they were not in the developments interests they would object. I feel the objections are purely being made out of spite in that the residents who have objected would in no way be affected by the change of this piece of ground as they do not live anywhere near it.

I would encourage council members or whoever is responsible for making this decision to visit the site and see how Mr Duncan's application makes complete sense.

I myself am completely unaffected by the decision as I do not live near the ground but I can fully understand the application and completely support its approval.

Kind Regards
Jonathan Lowe

