

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 9 JULY 2015

LAND BETWEEN 6 AND 6A AIRLIE STREET, BRECHIN

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 the erection of a dwellinghouse in Garden Ground, application No. 14/00644/PPPL at Land between 6 and 6A Airlie Street, Brechin.

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**).

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 47(3), 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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List of Appendices:

Appendix 1 – Submission by Planning Authority
Appendix 2 – Submission by Applicant

APPENDIX 1

APPLICATION NUMBER – 14/00644/PPPL

APPLICANT- MR E HAGGART

PROPOSAL & ADDRESS – ERECTION OF DWELLINGHOUSE IN GARDEN GROUND
AT LAND BETWEEN 6 AND 6A AIRLIE STREET, BRECHIN

ANGUS COUNCIL'S SUBMISSION

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Angus Council

Application Number:	14/00644/PPPL
Description of Development:	Erection of Dwellinghouse in Garden Ground
Site Address:	Land Between 6 And 6A Airlie Street Brechin
Grid Ref:	359445 : 760299
Applicant Name:	Mr E Haggart

Report of Handling**Site Description**

The site forms part of the curtilage of the large building at 6 Airlie Street, Brechin which is a Category B Listed building. A small dwellinghouse (6A Airlie Street) has been constructed in what would appear to have been the original curtilage of the listed building at 6 Airlie Street. The application site is located to the south of the main building between 6 and 6A Airlie Street. The area is overgrown. The existing access to 6 Airlie Street is located to the east whilst the western boundary is formed by a large stone wall that bounds Pearce Street. The surrounding area is mainly residential in nature.

Proposal

The current proposal is to erect a dwellinghouse within the garden ground of number 6 Airlie Street. As this application is for planning permission in principle only an indicative house layout has been shown. Vehicular access to the site is proposed to be taken from the existing access at Airlie Street.

Amended site plan received on 17/12/14 which provides for the formation of a passing place adjacent to the existing access and within the application site boundary.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 15 August 2014 for the following reasons:

- Affecting Setting of Listed Building

A site notice was posted on 28 August 2014.

Planning History

There have been a number of applications on this site previously.

In 1994 it is understood that a planning application for the erection of a house on a smaller site, comprising part of the current application site was refused. A subsequent appeal was upheld.

More recently, Planning Application 05/00547/FUL and Listed Building Consent application 05/00576/LBC for the erection of a dwellinghouse on the same site were refused by Committee at its meeting on 11 August 2005 (Report 854/05 refers) for the following reasons: -

1. That the proposal to erect a dwellinghouse within the curtilage of a Category 'B' listed building would be detrimental to the character and setting of the building, therefore failing to comply with the requirements of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
2. That the proposal to erect a dwellinghouse within the curtilage of a Category 'B' listed building would be detrimental to the character and setting of the building, therefore failing to comply with the Angus Local Plan Policy ENV 31: Memorandum of Guidance on Listed Buildings and Conservation Areas, Policy ENV 43 : Curtilage Development and Policy ENV 5 : Development in Existing Built-Up Areas.

A subsequent appeal was dismissed in January 2006 (ref: P/PPPA/120/163 and P/LBA/120/13 refer). The Reporter noted that the development plan policy position had changed significantly in the period since the previous decision at the site. He concluded that the development would have an adverse impact on the setting of the listed building and on the character of the area.

Applicant's Case

None.

Consultations

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

Angus Council - Roads - Object to the application. It is noted that there are several objections to the proposals which are similar to those regarding previous applications relating to sightlines. It is suggested that the owners of 6A Airlie Street may be prepared to negotiate with the developer regarding improvements to the driveway but nevertheless, the required visibility splays cannot be met at this point. The Roads Service is objecting to the application on the grounds of road safety due to the lack of adequate visibility sightlines at the existing access to Airlie Street. An amended plan was submitted during the course of the application to provide a passing place. However there remains no proposal to improve sightlines at the junction with the public road. As such the application would still result in an intensification of use of a sub-standard access and the Roads Service maintains its objection.

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

Representations

Four letters of objection / general comments have been received (3 individual households). These letters are summarised as follows: -

- Concerns regarding access and increase in traffic and road safety issues / concerns;
- Sewerage and drainage problems given sloping nature of the site;
- Nothing has changed with the access since the previous permission was refused;
- Need assurances that the house could not be extended in the future;
- If permission was refused would ask land owners to clear the land up;
- That the proposal would have a detrimental impact on the Category B listed building and surrounding area;
- It would set a precedent for similar development in the area;
- That nothing has materially changed from the previous decision taking to merit an approval of the application;
- Loss of street parking through breaching the boundary wall will inevitably result in cars parked further up Pearce Street causing congestion;
- Objections on visual appearance and compatibility grounds;
- Objections on privacy and amenity grounds;
- Adverse impact on pedestrians and cyclists.

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries
 Policy S3 : Design Quality
 Policy S6 : Development Principles (Schedule 1)
 Policy SC2 : Small Sites
 Policy SC14 : Villa Property
 Policy ER16 : Development Affecting the Setting of a Listed Building

TAYplan Strategic Development plan

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

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 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.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting special regard shall be paid to the desirability of preserving the building or its setting.

6 Airlie Street is a large stone built Villa. It is a Category B listed building and its grounds form an important part of the setting of the building.

Policy SC2 of the local plan deals with proposals for small housing developments. It requires proposals to provide a satisfactory residential environment having regard to factors including compatibility of land uses and plot sizes, provision of adequate private garden ground, and maintenance of residential amenity and privacy for neighbours. In this case the area is predominantly residential and there are no compatibility issues in terms of nearby uses. The plot proposed would be comparable in terms of size with the existing dwelling to the south and would, in principle, be capable of providing adequate private garden ground.

The proposed house would sit between existing dwellings and has the potential to provide for some overlooking of garden areas. In respect of the previous appeal relating to this site, the Reporter opined that the residential amenity of the occupants of the property to the south would only be safeguarded if the south elevation of the proposed dwelling was windowless which he suggested '*would be greatly out of character with the traditional styles of quality housing and would add to the 'squeezed-in' impression that the house would give*'. Whilst he considered that residential amenity impacts could potentially be mitigated in that manner he clearly considered that the resultant design and appearance of the building would not be appropriate. This application is for planning permission in principle and no details of house design have been provided. I accept the previous Reporter's conclusion that a house could be accommodated on the site in a manner that would not unacceptably affect the amenity of neighbours. However, no information has been provided to demonstrate that this could be done in a manner that would provide an acceptable design solution that would overcome the more significant concerns identified in respect of that appeal. Other matters in relation to impact on the setting of the listed building and access issues are discussed below.

As indicated above, 6 Airlie Street is a listed building and the Council is required to have special regard to the desirability of preserving the building and its setting. Policy ER16 relates to proposals that affect the setting of a listed building and indicates that development should avoid building in front of important elevations, felling mature trees and breaching boundary walls. Policy SC14 deals with proposals for new housing development within the grounds of stone-built villa properties.

The main elevation of the building at 6 Airlie Street faces south with all of the original garden ground to the front towards the public road at Airlie Street. There is an existing bungalow erected adjacent to the public road to the south. The listed building at 6 Airlie Street still remains visible from the public road. Whilst the setting of the building may be partially impacted on by the existing bungalow at 6A Airlie Street the scale of the building and the spacious grounds are typical of what would be expected to accompany a building of this scale. In that respect the open character of the remaining grounds and driveway contribute to the listed buildings setting.

The proposal would see the introduction of a further dwelling house in front of the main elevation of the listed building. In considering the previous appeal relating to this site the Reporter indicated that the further subdivision of the existing plot would reduce the spaciousness of the immediate curtilage of the listed building, leaving the setting of the substantial villa unsatisfactorily truncated. He also expressed concern that a new dwelling on the site would further restrict views to the listed building from the public streets. The findings of the appeal Reporter are material to the assessment of the impact of new development on a similar site on the setting of the listed building. No information has been provided to demonstrate that those concerns could be overcome and Policy ER16 is clear in stating that 'new development should avoid building in front of important elevations' of listed buildings. This application proposes the erection of a new building directly in front of the principal elevation of the building and adjacent to the main access drive to the building. In these circumstances it is clear that the development would adversely affect the setting of the listed building and would be contrary to Policy ER16. For similar reasons the proposal would damage the character and appearance of the existing property and as such the proposal is also contrary to Policy SC14. This conclusion is consistent with that previously reached by Committee and by the Appeal Reporter in 2005/6.

Policy S3 indicates that account should be had for how the development fits with the local pattern of development as well as issues in relation to relationship of the development to the existing character of the area. It also requires consideration of matters such as views into and out of the development. For reasons similar to those highlighted above relating to impact on the setting of the listed building the proposal is not consistent with Policy S3.

In relation to Policy S6 amenity impacts of the proposal are discussed above. In relation to matters of access the Roads Service has objected to the application on grounds of road safety. The Roads Service has noted there are several objections to the proposals relating to sightlines which are similar to those made on previous applications. The required visibility splays cannot be met at this point given the presence of the substantial stone walls at either side of the access. The limitations of the existing access

are well demonstrated in photographs submitted by third parties. Airlie Street is a busy route within the town and is used by vehicles and pedestrians going to and from the town centre and secondary school. The existing junction is sub-standard in terms of its visibility and is narrow along its length adjacent to the public road. I share the concerns expressed by the Roads Service and by residents that increased use of that sub-standard access would be detrimental to road traffic and pedestrian safety. The applicant has proposed the formation of a passing place within the application site but that would not address the concerns relating to intensification of use of a sub-standard access on a busy street within the town.

The applicant has indicated that the proposal would connect to the public drainage system. If permission was granted it would be appropriate to require surface water to be directed to a sustainable urban drainage system and details of that could be required by condition. The proposal does not give rise to significant issues in terms of the remaining criteria of Policy S6.

The matters raised in the letters of representation have been noted and addressed where appropriate above. Matters that are not addressed are not relevant to the determination of the application. A proposal to breach the boundary wall on Pearse Street formed part of the previous application that was refused and was found to be unacceptable. However, that does not form part of the current proposal. No other matters are raised that would justify a different decision on the planning application.

As indicated above the previous decision of Committee and the Appeal reporter to refuse planning permission for the erection of a house on a similar site is material to the consideration of this application. Whilst this proposal differs from the previously refused application the issues regarding adverse impact on the setting of the listed building remain.

In conclusion, the development proposed would have an adverse impact on the character and appearance of the area and on the setting of the listed building. It would also have an adverse impact on pedestrian and road traffic safety. On this basis the proposal is contrary to development plan policy. There are no material considerations that justify approval of the application.

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 ER16 of the Angus Local Plan Review 2009 as the proposed development would be located in front of an important elevation of a listed building and would have an adverse impact on the setting of that listed building.
2. That the application is contrary to Policies S3 and SC14 of the Angus Local Plan Review 2009 as

the proposed development would have an adverse impact on the character and appearance of the existing property at 6 Airlie Street and the surrounding area.

3. That the application is contrary to Policy S6, Policy SC2 and Policy S1 of the Angus Local Plan Review 2009 as the access/egress to the site from Airlie Street is substandard and intensification of use of that access/egress with the public road would be detrimental to road traffic and pedestrian safety.

Notes:

Case Officer: James Wright
Date: 5 March 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 S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:-

- * site location and how the development fits with the local landscape character and pattern of development;
- * proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- * use of materials, textures and colours that are sensitive to the surrounding area; and
- * the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

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 SC2 : Small Sites

Proposals for residential development on small sites of less than 5 dwellings within development boundaries should provide a satisfactory residential environment taking account of the following:-

- * compatibility with established and proposed land uses in the surrounding area;
- * plot sizes compatible with those in the area;
- * provision of at least 100m² private garden ground ; and
- * maintenance of residential amenity and privacy of adjoining housing.

Proposals will also be required to take account of the provisions of Policy S6 : Development Principles.

Policy SC14 : Villa Property

Development proposals for new residential development within the garden ground of stone-built villa properties within development boundaries will only be acceptable where:-

- * the development (including roads and driveways) does not damage the character and appearance of the existing property and/or the surrounding area;
- * the proposal respects the density, scale, form, siting, orientation and materials of existing buildings;
- * development does not result in the unacceptable loss of important trees;
- * car parking and garaging are unobtrusively sited; and
- * the proposal complies with other relevant policies of this Plan.

Development proposals involving the change of use of villa property which would adversely affect the residential character of the surrounding area or significantly impact on the amenity enjoyed by adjoining properties, will not be permitted.

Policy ER16 : Development Affecting the Setting of a Listed Building

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.

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.

DESIGN QUALITY

1.37 High quality, people-friendly surroundings are important to a successful development. New development should add to or improve the local environment and should consider the potential to use innovative, sustainable and energy efficient solutions. A well-designed development is of benefit to the wider community and also

provides opportunities to:

- create a sense of place which recognises local distinctiveness and fits in to the local area;
- create high quality development which adds to or improves the local environment and is flexible and adaptable to changing lifestyles;
- create developments which benefit local biodiversity;
- create energy efficient developments that make good use of land
- and finite resources.

1.38 Design is a material consideration in determining planning applications. In all development proposals consideration should be given to the distinctive features and character of the local area. This includes taking account of existing patterns of development, building forms and materials, existing features such as hedgerows, trees, treelines and walls and distinctive landscapes and skylines.

1.39 The preparation of a design statement to be submitted alongside a planning application is encouraged, particularly for major developments or those affecting listed buildings or conservation areas. Early contact with Planning and Transport is recommended so that the requirement for a design statement can be determined.

Designing Places - A policy statement for Scotland – Scottish Executive 2001 This is the first policy statement on designing places in Scotland and marks the Scottish Executive's determination to raise standards of urban and rural development. Good design is an integral part of a confident, competitive and compassionate Scotland.

Good design is a practical means of achieving a wide range of social, economic and environmental goals, making places that will be successful and sustainable.

PAN 68 Design Statements

Design Statements should explain the design principles on which the development is based and illustrate the design solution.

The PAN explains what a design statement is, why it is a useful tool, when it is required and how it should be prepared and presented.

The aim is to see design statements used more effectively in the planning process and to

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- **site location and how the development fits with the local landscape character and pattern of development;**
- **proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;**
- **use of materials, textures and colours that are sensitive to**
- **the surrounding area; and**
- **the incorporation of key views into and out of the development.**

Innovative and experimental designs will be encouraged in appropriate locations.

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.

Towns, Villages and Other Settlements

2.11 The design and layout of all new housing is required to produce a viable and attractive development which relates well to the surrounding area, whether it is an allocated site, an unexpected windfall site or a small site within an existing settlement. Policy S6 :Development Guidelines seeks to ensure that relevant developments take account of a range of factors and make a positive contribution to the local environment. Housing proposals will be considered against the relevant guidelines. Angus Council's Advice Notes 6 – Backland Housing Development and 14 – Small Housing Sites provide detailed guidance relevant to small housing sites within development boundaries.

2.12 Allocations of land for residential development are made in the Settlement Statements in Part 4 of this Local Plan. In addition to allocated sites and land with planning permission, there may be other currently unidentified sites which may be suitable for residential development. The Plan provides scope for such sites to come forward, within development boundaries, where development is in accordance with the principles of the Local Plan.

Policy SC2 : Small Sites

Proposals for residential development on small sites of less than 5 dwellings within development boundaries should provide a satisfactory residential environment taking account of the following:-

- **compatibility with established and proposed land uses in the surrounding area;**
- **plot sizes compatible with those in the area;**
- **provision of at least 100m² private garden ground ; and**
- **maintenance of residential amenity and privacy of adjoining housing.**

Proposals will also be required to take account of the provisions of Policy S6: Development Principles.

Development Boundaries:

Generally provides 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.

Villa Property

2.39 In some of the Angus burghs there are areas of large, stone built houses set in mature garden grounds, such as Lour Road/Hillside Road, Forfar; Brechin Road, Kirriemuir; and Park Road, Brechin. These properties often have extensive stone boundary walls which contribute to their character. The gardens of some of these properties would be large enough to accommodate new houses, which would substantially alter the amenity and character of the area. In order to protect the character and appearance of villa property areas, proposals will be considered under the following policy. This policy does not apply outwith development boundaries.

Policy SC14 : Villa Property

Development proposals for new residential development within the garden ground of stone-built villa properties within development boundaries will only be acceptable where:

- **the development (including roads and driveways) does not damage the character and appearance of the existing property and/or the surrounding area;**
- **the proposal respects the density, scale, form, siting, orientation and materials of existing buildings;**
- **development does not result in the unacceptable loss of important trees;**
- **car parking and garaging are unobtrusively sited; and**
- **the proposal complies with other relevant policies of this Plan.**

Development proposals involving the change of use of villa property which would adversely affect the residential character of the surrounding area or significantly impact on the amenity enjoyed by adjoining properties, will not be permitted.

LISTED BUILDINGS

3.34 The relationship of a listed building with the buildings, landscape and spaces around it is an essential part of its character. The setting of a listed building is, therefore, worth preserving and may extend to encompass land or buildings some distance away. Insensitive development can erode or destroy the character and/or setting of a listed building. Consequently planning permission will not be granted for development which adversely affects the setting of a Listed Building. Trees and landscaping, boundary walls and important elevations may be particularly sensitive to the effects of development.

Policy ER16 : Development Affecting the Setting of a Listed Building

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.



Memorandum

**Communities
(Roads)**

TO: HEAD OF PLANNING & PLACE

FROM: HEAD OF TECHNICAL & PROPERTY SERVICES

YOUR REF:

OUR REF: GH/AG/SC TD1.3

DATE: 11 DECEMBER 2014

SUBJECT: PLANNING APPLICATION REF. NO. 14/00644/PPPL – PROPOSED HOUSE ON LAND BETWEEN 6 AND 6A AIRLIE STREET, BRECHIN FOR MR E HAGGART

I refer to the above planning application.

The site is located on the north side of Airlie Street, Brechin on land within the garden boundary of other properties.

There are several objections to the proposals which are similar to those regarding previous applications relating to sightlines. I have also noted that the owners at No 6A Airlie Street may be prepared to negotiate with the developer with regard to improvements to the driveway. Nevertheless, the required visibility splays cannot be met at this point.

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I object to the application on the grounds of road safety due to the lack of visibility sightlines at the existing access to Airlie Street.

I trust the above comments are of assistance but should you have any further queries, please contact Adrian Gwynne on extension 3393.

p.p.



Memorandum

Communities
(Roads)

TO: HEAD OF PLANNING & PLACE

FROM: HEAD OF TECHNICAL & PROPERTY SERVICES

YOUR REF:

OUR REF: GH/AG/CM TD1.3

DATE: 31 JANUARY 2015

**SUBJECT: PLANNING APPLICATION REF. NO. 14/00644/PPPL – PROPOSED
ERECTION OF A DWELLING HOUSE AT 6 AIRLIE STREET, BRECHIN FOR MR
E HAGGART**

Further to the above planning application.

The site has a long and varied planning history dating back to 1995 when an application for a new house was refused by the planning authority but granted on appeal by a Reporter. No indication was given in the application where access to the site would be taken from but it was suggested during consideration of the application that this could be via Pearse Street.

Following the turn of the century a subsequent application was lodged (04/01053/OUT). This application was based on access being taken from the existing driveway located on Airlie Street. The roads service objected to the application on road safety grounds, due to the sub-standard sightlines available at the site access. This is caused by the narrowness of the adjacent footway on Airlie Street. The application was subsequently withdrawn.

The above application was timely followed by dual applications for a new house and listed building consent (05/00547/FUL & 05/00576/LBC) which reverted to the proposed access from Pearse Street. These applications were to include demolition of part of the boundary wall to form an access which was to be built in accordance with the road standards at the time. As such, the roads service did not object to the applications. However, the applications were refused by the Council and then, following an appeal, were dismissed by the appointed Reporter. These applications have no bearing on the consideration of the current application, in terms of traffic safety, as the respective vehicular access points are on different roads and are to different roads design standards.

In terms of traffic safety, the current application mimics the application submitted in 2004 for which the Roads service objected due to the sub-standard sightlines. In order to offset this failing the applicant has submitted an updated site plan dated July 2014, which proposes improvements to the private driveway by virtue of the provision of an internal passing place, 8.0m long by 5.5m wide. This will assist the free flow of traffic on the private driveway and also reduce the likelihood of opposing vehicles reversing out onto the public road, at a location where visibility is poor. This is a welcome improvement.

Accordingly, on the basis of the amended proposals, I consider that the determining issue is whether or not the improvements to the private driveway outweigh the failure to meet the Council's road design standards, in terms of visibility at the junction with the public road.

My responsibility rests with traffic safety on the public road and as such, the proposals for the access fail to meet the Council's road design standards. Albeit, these standards have changed since the application was lodged, resulting in a reduced requirement for visibility sightlines. This also means that the previous planning applications for the site are of less relevance to the consideration of the current application; in traffic safety terms.

The minimum sightlines now required, on both sides of the access, at its junction with the public road (Airlie Street) are; 2.0 metres by 43 metres. The existing footway on the north side of Airlie Street is significantly less than 2.0 metres wide. The breach in the boundary wall at the access is narrow and the boundary wall is high. These factors all contribute to a poor access.

I have taken account of the amended plan and whilst the proposed improvements to the private access are welcome, there remains no proposal to improve the sightlines at the junction with the public road. Therefore, the application would still result in an intensification of use of a sub-standard access.

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I find that, on balance, I must maintain my objection to the proposed development.

I trust the above comments are of assistance but should you have any further queries, please contact Adrian Gwynne extension 3393.

p.p.

From:MacariK
Sent:24 Oct 2014 15:24:13 +0100
To:WrightJ
Subject:14/00644/PPPL

James,

Land between 6 and 6a Airlie Street, Brechin

With regards to the above application and our previous discussions regarding the principle of development of this type on the site I can confirm the following position:

Although the above application does not interfere with the west most boundary wall to Pearse Street therefore not altering the character or appearance of the boundary wall, the development would result in an impact on the setting of the listed building to the north.

I would therefore refer to previous comments regarding the impact on the adjacent listed building.

Should you wish to discuss further please get in touch.

Kirsty

Kirsty Macari, Senior Planning Officer (Environment & Development Plan), Communities, Planning, County Buildings, Market Street, Forfar, DD8 3LG Tel: (01307) 473265

SERVICE MANAGER**ANGUS COUNCIL
COMMUNITIES
PLANNING & PLACE
COUNTY BUILDINGS
MARKET STREET
FORFAR
DD8 3LG**

JL
RECEIVED
26 AUG 2014
JM

**MR & MRS A BRYMER
6A AIRLIE STREET
BRECHIN
DD9 6JP**

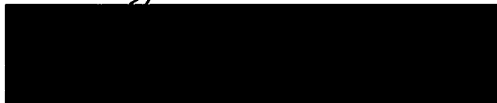
PLANNING APPLICATION REFERENCE : 14/00644/PPPL

With reference to above planning application, we would like it to be noted that we are not saying a definite no to this but we do have quite a few concerns regarding the building of this house.

1. Access up our drive to get to house, this is a very narrow drive with restricted view leading out to main road, traffic is already heavier than it should be as a B&B is at the very top of our drive and more vehicles would add to the problem of this, we may be willing to discuss if changes could be made to the drive obviously with any costs involved being covered by Mr E Haggart.
2. We are also a bit concerned regarding the sewage and drainage problems this could bring as we would be the last house on a downward slope so any problems with this would affect us.
3. We would also like to know why this is coming up again as 10 years ago someone else wanted to build a house on that land and permission was refused 3 times due to the access problems, nothing has changed with the access so the problems are still there
4. We would also need assurances that if permission is given at this time that the house cannot be extended in any way in the future.
5. If permission is refused we would ask that the owner of the land clears overgrown plants weeds etc ASAP as it is a total eyesore.
6. Please find attached paperwork stating why planning permission was refused on earlier occasions

We look forward to receiving the responses to our concerns

Yours faithfully



Mr & Mrs Brymer



ANGUS DISTRICT COUNCIL

J. JEPSON DIP TP FRTP1
DIRECTOR OF PLANNING

COUNTY BUILDINGS
FORFAR DD8 3LG
Forfar (0307) 465101
Fax No. (0307) 464834

D. & S. E. NICOLL
PEARSE CORNER
2A PEARSE STREET
BRECHIN
DD9 6JR

19/11/93

Dear Sir/Madam,

**PLANNING APPLICATION REF: 01/93/0976
ACKNOWLEDGEMENT OF REPRESENTATION
TOWN AND COUNTRY PLANNING ACT 1972**

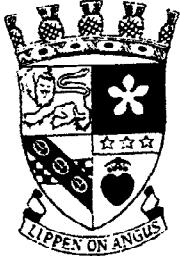
I acknowledge receipt of your letter in connection with the above application. Your letter will be presented to the Planning Committee as part of the planning report on the application. The Planning and Development Committee is a public meeting and as such you may, if you wish, attend and at the discretion of the Committee address the meeting.

If further information on the progress of the above application is required please do not hesitate to contact my Assistant MR. ANDREW WEBSTER EXT 251.

Notification of the outcome of the decision by the District Council will be forwarded to you in due course.

Yours Faithfully


Director of Planning

**ANGUS DISTRICT COUNCIL**

J. JEPSON DIP TP FRTP
DIRECTOR OF PLANNING

COUNTY BUILDINGS
FORFAR DD8 3LG
Forfar (0307) 465101
Fax No. (0307) 464834

D. Nicoll,
Pearse Corner,
2A Pearse Street,
BRECHIN
DD9 6JR

Our Ref : 01/93/0976/RMcN/SME

Your Ref :

Ask for Mr. McNicoll

Date 11 August 1994

Dear Sir/Madam,

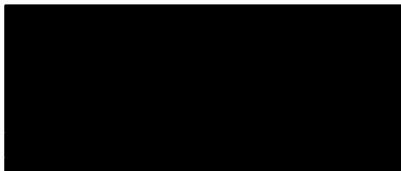
TOWN AND COUNTRY PLANNING (WRITTEN SUBMISSIONS PROCEDURES) (SCOTLAND) REGULATIONS 1990
PLANNING APPEAL AT PEARSE STREET, BRECHIN

I refer to the above application in respect of which you made written representations to me.

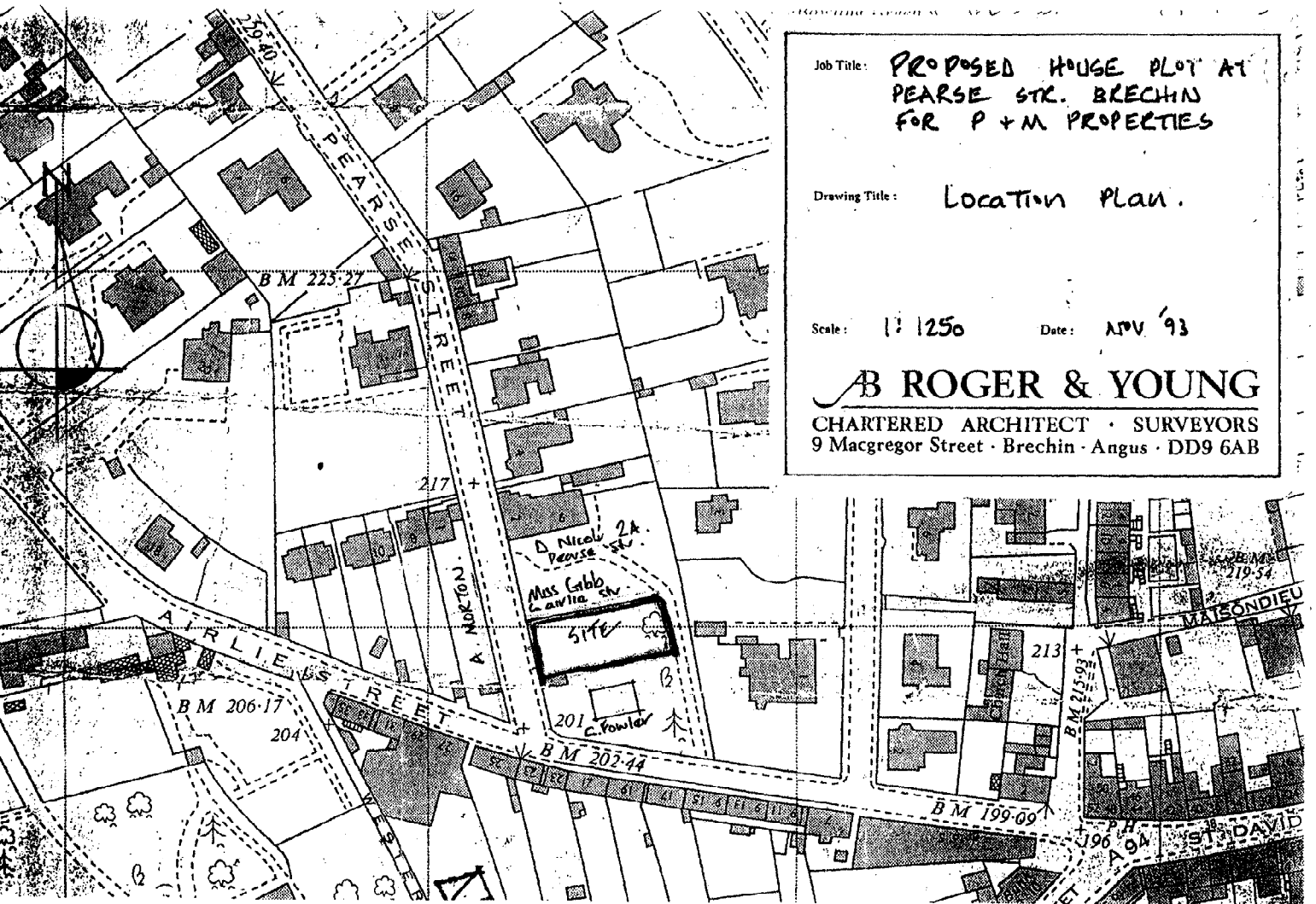
As you may be aware the application was refused planning permission by Angus District Council.

I am writing to inform you that the applicant has now submitted an Appeal to the Secretary of State. Should you wish to make further representations on this matter you should submit them in writing within fourteen days of the date of this letter to The Scottish Office, Enquiry Reporters Unit, 2 Greenside Lane, Edinburgh, EH1 3AH, quoting reference P/PPA/TA/330.

Yours faithfully,



DIRECTOR OF PLANNING





ANGUS DISTRICT COUNCIL

Application for Planning Permission (Including Listed Building Consent)

Town and Country Planning (Scotland) Act 1972

AC5

NOTICE
FOR SERVING ON
NEIGHBOUR
BY APPLICANTS

THE PLANNING DEPARTMENT
ANGUS DISTRICT COUNCIL
County Buildings
FORFAR DD8 3LG

1. Address or location of land/buildings concerned	1. PEARSE STREET BRECHIN Postcode: DD9 6JR
2. APPLICANT's name and address	2. P & M PROPERTIES c/o A B Roger & Young 9 Macgregor Street Brechin Telephone No. 0356 622125 Postcode: DD9 6AB
3. AGENT's name and address	3. A B ROGER & YOUNG 9 MACGREGOR STREET BRECHIN Telephone No. 0356 622125 Postcode: DD9 6AB
4. Describe the development and/or use proposed	4. SITE FOR HOUSE
5. Present use of land/buildings. If vacant please state previous use, if known	5. GARDEN GROUNDS
6. Specify any buildings to be demolished	6. NONE
7. Is a new connection to the mains sewer intended If NO, what are the proposed sewerage arrangements - will effluent discharge be to (a) watercourse or (b) soakaway?	7. YES/ NO x
8. Is the construction of a new access or alteration to an existing access to a Public Road involved?	8. YES/ NO x
9. Describe the MATERIALS and COLOURS to be used in the external construction of walls, roof coverings and boundary wall/fences.	9. N/A

~~I~~/We hereby apply for outline/planning permission/~~listed building consent~~ (delete as applicable).

Signed

[Redacted Signature]

(Applicant or Agen.

Date 5 November 1993

**PLEASE NOTE
THIS NOTICE IS SERVED ON NEIGHBOURS BY THE APPLICANT NOT BY THE LOCAL PLANNING AUTHORITY.**

**THE ANGUS DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972**

**TOWN AND COUNTRY PLANNING
(GENERAL DEVELOPMENT PROCEDURE) (SCOTLAND) ORDER 1992**

NOTICE UNDER ARTICLE 9(1)

(a) Insert address or location of proposed development

Proposed development at (a) PEARSE STREET
BRECHIN

NOTICE is hereby given that

1. application is being made to ANGUS DISTRICT COUNCIL

(b) Insert name and address of applicant serving this notice

by (b) P & M PROPERTIES
c/o A B Roger & Young
9 Macgregor Street
Brechin

(c) Insert description of proposed development.

for planning permission in respect of (c) SITE FOR HOUSE

2. as specified in the application form overleaf, a copy of a plan showing the situation & location of the development is attached.
3. the application and other documents submitted may be inspected at all reasonable hours in the register of planning applications kept by the planning authority at the address of the planning authority shown on the application and also at the local housing office, during the period of 14 days beginning with the date of this notice. This service is dependant upon plans being provided by the applicant timeously. Any delays, the responsibility of the applicant, will be added to the period allowed for representations; and
4. any person who wishes to make representations to the above-mentioned application should make them in writing within that period to the Council at the address of the planning authority shown on the application.

Signed A B Roger & Young

On behalf of P & M Properties

Date 5 November 1993



THE SCOTTISH OFFICE

Inquiry Reporters

AC5

2 Greenside Lane
Edinburgh EH1 3AG

Telephone 0131-244 5666
Fax 0131-244 5680

D Nicoll
Pearse Corner
2A Pearse Street
Brechin
Angus
DD9 6JR

Our ref: P/PPA/TA/330

6 February 1995

Dear Sir/Madam

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
APPEAL: PEARSE STREET, BRECHIN

I refer to previous correspondence with Angus District Council and your letter of 17 August 1994 to this Unit regarding this appeal which is to be decided on the basis of written submissions by the parties.

Arrangements have been made for a Reporter, Mr G M M Thomson DipTP MRTPI ARIBA ARIAS, to make an accompanied site inspection at 11.00am on Wednesday 22 February 1995. You may attend the site inspection if you wish but I must point out that the purpose of the site inspection is solely to acquaint the Reporter with all the physical aspects of the site and its surroundings. Particular features of the site as they relate to the proposed development can be pointed out to the Reporter but no discussion is allowed on the merits of the case.

You will be notified of the decision on the appeal in due course.

Yours faithfully



MRS P A PINNER

RHR06615



THE SCOTTISH OFFICE

Inquiry Reporters

2 Greenside Lane
Edinburgh EH1 3AG

Telephone 0131-244
Fax 0131-244 5680 5662

D Nicoll
Pearse Corner
2A Pearse Street
Brechin
Angus
DD9 6JR

Our Ref: P/PPA/TA/330

5 June 1995

Dear Sir/Madam

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
APPEAL: PEARSE STREET, BRECHIN.

I enclose for your information a copy of the decision letter on this appeal.

Yours faithfully



DAVID RENTON



THE SCOTTISH OFFICE

Inquiry Reporters

2 Greenside Lane
Edinburgh EH1 3AG

Telephone 031-244⁵⁶⁶⁶
Fax 031-244 5680

K W Robertson Esq
2 Pirnie Mill
FORFAR
DD8 3ES

Our Ref: P/PPA/TA/330

5 June 1995

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972: SECTION 33 AND SCHEDULE 7
APPEAL BY P & M PROPERTIES: PEARSE STREET, BRECHIN**

1. I refer to your client's appeal, which I have been appointed to determine, against the decision of the Angus District Council to refuse outline planning permission for the erection of a dwellinghouse at the above address. I made an accompanied inspection of the appeal site and surrounding area on 22 February 1995 and have considered the written submissions of the parties on the matter. For the reasons set out in paragraphs 8 to 15 below, I have decided to sustain the appeal.

2. The appeal site is a 0.05ha, south-sloping, rectangular area of ground within the front garden of the two-storey dwellinghouse identified as 2 Pearse Street and 6 Airlie Street, Brechin. The property is listed Category 'B' in the Secretary of State's List of Buildings of Special Architectural or Historic Interest and has been split into flats. The house sits at the rear of its feu adjacent to Pearse Street, which runs down the west side of the property. Vehicular access to the existing house is taken by a driveway leading from the east end of the south boundary, off Airlie Street. A bungalow has been built within former garden ground at the south end of the feu, facing Airlie Street. The appeal site is bounded to the north by a line of dense shrubs, to the west by a 3m high stone wall at the back of the Pearse Street foot-pavement, to the south by a larch-lap fence forming the rear boundary of the bungalow, and to the east by a footpath which runs parallel to the driveway. The proposal is to construct a further dwellinghouse between the two existing properties, with access gained from Pearse Street, by creating an entrance to the site through the existing stone wall.

3. The planning application was refused for the reasons,

[1] that the proposal, if approved, could lead to other applications of a similar nature to the detriment of the visual amenity of the area;

- [2] that the proposal, if approved, would be detrimental to the amenity currently enjoyed by the adjacent residents;
- [3] that the proposal would visually detract from the character of a listed building;
- [4] that the proposal would be prejudicial to and seriously injure the low density and high amenity presently enjoyed in the area; and
- [5] that the proposal, if approved, would place at risk the future survival of a number of important mature trees.

4. **In support of your client's appeal**, you claim that the house would be sited and designed in sympathy with the area in general and the listed building in particular. By locating it 25m from the main house and 10m from the modern bungalow at the south end, it would enhance the setting of the listed building by partially screening the bungalow. No precedent would be created, as there is no other site of this size in the area. In terms of density, the adjacent residential areas accommodate between 20 and 25 houses/ha so the proposal would not be excessive. The proposed house would not affect the privacy of adjacent properties, nor any of the trees around the site. The access through the wall, if designed with pillars and a solid gate, would be visually acceptable as part of the street scene.

5. **The district council** insists that the submitted plan did not show how access to the site was to be obtained and in discussions, it became clear that the applicant could not use the existing driveway. The subsequent plans which show how access could be taken from Pearse Street in order to reduce damage and visual intrusion do not therefore form part of the application. The council refers to the Memorandum of Guidance on Listed Buildings and Conservation Areas issued by Historic Scotland and to its own Advice Note No 14 entitled "Single Plot Residential Development"; the former advises against development in the front garden of large suburban houses which would destroy the relationship of the house to the street, while the latter document advises against the insertion of a small house plot in a medium density area if the development is likely to look out of place or squeezed in.

6. Further concerns are raised in connection with the provision of two car parking spaces, as an integral garage would necessarily increase the size of the house. Boundary enclosures are also referred to, as well as the matters already raised in the reasons for refusal. The district council does not consider that the bungalow already built in the garden of the listed building affects the situation, as it is further removed from the facade of the building; nor does it accept that the proposal would enhance the setting of the existing house as you suggest. The council argues your submission point by point and concludes that outline planning permission should not be given for the proposal.

7. **Objections** to the proposal were submitted by Councillor Mrs R Leslie Melville and by adjoining and neighbouring residents. These support the district council's reasons for opposing development on the appeal site but several of them also raise the issue of land ownership on the east side of the site.

8. The conclusions which I have reached in relation to your client's appeal are based upon my consideration of the written submissions of the parties and of the site and surrounding area as seen at the time of my accompanied site inspection. As the site lies near the centre of the town, within a residential area, there are no development plan implications in the proposal. Nevertheless, there are other constraints requiring consideration. For example, there is no doubt that it is a restricted site, that it lies within the curtilage of a listed building, and that because it is land-locked on three sides, its only access requires the breaching of a beautiful stone wall.

9. In regard to the first of these, the district council has produced Advice Note 14 entitled "Single Plot Development". This document sets out guidance on a number of considerations such as plot size, coverage, private amenity space, and distance between buildings. The proposed site is well over the minimum size required by the guidelines and it seems to me that the subdivision of the site layout also complies in its proportional distribution of the ground relating to the existing houses. With a high wall on Pearse Street and dense planting to the north, I find that the provision of private amenity space would also present no difficulties. While plot cover and distance between buildings are matters which will require consideration at full planning permission stage, it is necessary for me to ensure that compliance with these issues is possible; in this regard, I am in no doubt that a number of permutations could meet the council's advice on these matters as well.

10. The constraints created by the listed building give me greater cause for concern. The dense planting screen at the north end of the site is bounded on its north side by a further ornamental border with further, lower shrub planting. While this may not be the size of garden ground originally intended for the villa when it was constructed, I place considerable weight on the fact that the integrity of this house has already been affected in a number of ways, such as the house itself already being reduced to flats, that a bungalow has been erected between it and its street frontage, that its grounds have been sub-divided and also that they generally show signs of decay and lack of attention. At the same time, the main approach to the house, between stone pillars and up the length of the driveway remains intact, as does the immediate garden around the house itself. In my opinion therefore, this garden area now appears as adequate amenity space around the listed building, given present circumstances. In any case, the line of mature shrubs to the north and the sloping nature of the ground will reduce the impact of the house, provided it is no more than single storey in height, as indicated on the submitted sketches.

11. I have noted the council's position that the access from Pearse Street should not form part of the submission, but as the application is in outline only, I consider that this is an appropriate matter to be reserved for future submission, provided any onerous implications are dealt with at this stage.

12. In this regard, I consider it to be regrettable that the stone boundary wall on Pearse Street has to be breached but do not consider this, by itself, to be sufficient reason to refuse planning permission. With due care over design, detailing, the use of matching materials, construction and re-instatement of the existing stonework, I can see no reason why an attractive entrance should not be created to the site without affecting the overall appearance of the wall. At the least it would appear superior to that constructed to accommodate the garage to the south of the site. In any case it seems to me that those presently refusing access over the strip between the existing driveway and the east boundary of the site and who at the

same time have objected to any breach of the wall, already have this matter in their own hands.

13. There is no reason why the existing trees and shrubs should be at issue either. I noted that the two mature trees at most risk were both outwith the boundaries of the site, although their canopies projected over the area in question and their roots are therefore likely to spread equally far under the site. The willow to the north is less likely to be affected than the oak to the east, and the latter is the more mature specimen; at least 6m should therefore be left from the trunk of this tree to avoid affecting its roots, while 5m would be sufficient to preserve the willow. I accept that this may also have implications in the consideration of any alternative access and great care would require to be taken in aligning any driveway in order to avoid root damage.

14. Of the other issues which are material to the appeal, I do not consider that the council's suggestion that the approval of your client's proposals necessarily implies that other plot sub-divisions in the area will follow. Each will require to be assessed on its own merits, and I do not expect that many will have the same considerations as those involved in this appeal. The width of the original feu is also notable, particularly in relation to density calculations, as it means that the insertion of a house on this site will not raise the overall density level to a proportion that would be incompatible with any of the surrounding areas. I have also taken into account all the other matters raised, but find that they do not outweigh the considerations which have led me to my conclusions.

15. Accordingly, in exercise of the authority delegated to me, I hereby sustain your client's appeal and grant outline planning permission for the erection of a house on the appeal site, subject to the following conditions:-

- [1] Approval of the siting, design and external appearance of the buildings, the means of access thereto, the details of the method of delineating the boundaries of the feu and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained from the planning authority prior to the commencement of any work on the site;
- [2] Application for approval of the reserved matters listed in condition [1] above shall be made to the planning authority before the end of three years from the date of this permission;
- [3] No building on the site shall exceed one storey in height;
- [4] No part of the proposed building, garage, outhouse, wall, driveway or other works requiring excavation shall be closer than 5m to the trunk of the willow tree immediately to the north of the site or closer than 6m to the trunk of the oak tree immediately to the east of the site;
- [5] For the purposes of this development, for which permission is granted, no existing trees or shrubs shall be removed or otherwise interfered with by, or at the instance of the developer, without the prior consent in writing of the planning authority; and

K W Robertson Esq

P/PPA/TA/330

5 June 1995

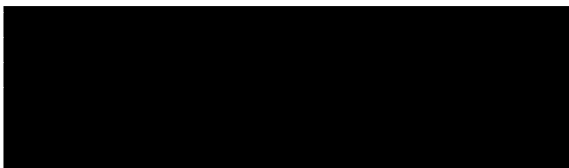
- [6] If access is to be taken direct off Pearse Street, prior to the commencement of any work on site which would affect the existing boundary wall on Pearse Street, details of the proposed gateway, gate and pavement crossing to a scale of not less than 1:20 together with a specification of their dimensions and the materials from which they are to be constructed, shall be submitted to and approved in writing by the planning authority, and, following receipt of such approval but before the dwellinghouse hereby approved is occupied, the gateway, gate and pavement crossing shall be constructed in accordance with the drawing approved by the council.

Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused, or granted conditionally, or if the authority fails to give notice of its decision within the prescribed period.

16. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within six weeks from the date hereof, conferred by sections 231 and 233 of the Town and Country Planning (Scotland) Act 1972; on any such application, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act, or of the Tribunals and Inquiries Act 1992, or of any orders, regulations or rules made under these Acts.

17. A copy of this letter has been sent to the Angus District Council and to Cllr Mrs Leslie Melville. The other objectors have been notified of the decision.

Yours faithfully



G M M THOMSON
Reporter

Print Version

[Close Window](#)[Print](#)

Summary

Reference: 05/00158/UNDV
Alternative Reference: Not Available
Address: Garden Ground Of 6 Airlie Street Brechin Angus DD9 6JP
Status: Case Closed
Type: Unauthorised Development
Decision: Not Available
Decision Reason: Justification from Officer
Close Reason: Case Closed
Parish: Brechin & District
Ward: Brechin West
Case Officer: Mr Blair Steve
How Complaint Received: By Telephone
Nature of Complaint: Fence erected to divide plot which has not been approved. Listed Building and also a Flat

Important Dates

No details available

Related Information

There are 0 documents associated with this enforcement.

There are 0 cases associated with this enforcement.

There is 1 property associated with this enforcement.

Print Version

Close Window

Print

Results for Appeal Search

Erection of a Dwellinghouse and Partial Demolition of Wall to form New Access

Garden Ground Of 6 Airlie Street Brechin Angus DD9 6JP

Ref. No: 05/00019/REFUSE | Received: Thu 06 Oct 2005 | Status: Appeal dismissed DPEA

Erection of a Dwellinghouse and Partial Demolition of Wall to form New Access

Garden Ground Of 6 Airlie Street Brechin Angus DD9 6JP

Ref. No: 05/00017/REFUSE | Received: Thu 22 Sep 2005 | Status: Appeal dismissed DPEA

Print Version

Close Window Print

Summary

Reference	05/00547/FUL
Alternative Reference	Not Available
Application Received	Thu 31 Mar 2005
Address	Garden Ground Of 6 Airlie Street Brechin Angus DD9 6JP
Proposal	Erection of a Dwellinghouse and Partial Demolition of Wall to form New Access
Status	Application Refused
Appeal Status	Appeal dismissed DPEA
Appeal Decision	Appeal Dismissed

Further Information

Application Type	Full Application
Decision	Refused
Actual Decision Level	Committee Decision
Expected Decision Level	Not Available
Case Officer	Mrs Irene Hughes
Parish	Brechin & District
Ward	Brechin West
District Reference	Not Available
Applicant Name	M Wilkie
Agent Name	A B Roger & Young
Agent Company Name	Not Available
Agent Address	9 MacGregor Street BRECHIN Angus DD9 6AB
Agent Phone Number	01356 622125

Environmental Assessment Requested No

Contacts

Ward Councillors

Councillor The Hon R J Leslie Melville

Address Little Deuchar BRECHIN Angus DD8 3RA

Important Dates

Application Received Date Thu 31 Mar 2005

Application Validated Date	Fri 08 Apr 2005
Expiry Date	Fri 09 Sep 2005
Actual Committee Date	Thu 11 Aug 2005
Latest Neighbour Consultation Date	Fri 19 Aug 2005
Neighbour Consultation Expiry Date	Fri 09 Sep 2005
Standard Consultation Date	Not Available
Standard Consultation Expiry Date	Not Available
Last Advertised In Press Date	Fri 01 Jul 2005
Latest Advertisement Expiry Date	Fri 22 Jul 2005
Last Site Notice Posted Date	Not Available
Latest Site Notice Expiry Date	Not Available
Decision Made Date	Fri 19 Aug 2005
Decision Issued Date	Fri 19 Aug 2005
Permission Expiry Date	Thu 19 Aug 2010
Decision Printed Date	Fri 19 Aug 2005
Environmental Impact Assessment Received	Not Available
Target Determination Date	Fri 03 Jun 2005
Determination Deadline	Tue 07 Jun 2005

Related Information

There are 0 documents associated with this application.

There are 2 cases associated with this application.

There is 1 property associated with this application.

Print Version

Close Window Print

Summary

Reference	05/00576/LBC
Alternative Reference	Not Available
Application Received	Thu 31 Mar 2005
Address	Garden Ground Of 6 Airlie Street Brechin Angus DD9 6JP
Proposal	Erection of a Dwellinghouse and Partial Demolition of Wall to form New Access
Status	Application Refused
Appeal Status	Appeal dismissed DPEA
Appeal Decision	Appeal Dismissed

Further Information

Application Type	Listed Building Consent
Decision	Refused
Actual Decision Level	Committee Decision
Expected Decision Level	Not Available
Case Officer	Mrs Irene Hughes
Parish	Brechin & District
Ward	Brechin West
District Reference	Not Available
Applicant Name	M Wilkie
Agent Name	A B Roger & Young
Agent Company Name	Not Available
Agent Address	9 MacGregor Street BRECHIN Angus DD9 6AB
Agent Phone Number	01356 622125

Environmental Assessment Requested No

Contacts

Ward Councillors

Councillor The Hon R J Leslie Melville

Address Little Deuchar BRECHIN Angus DD8 3RA

Important Dates

Application Received Date Thu 31 Mar 2005

Application Validated Date	Thu 14 Apr 2005
Expiry Date	Fri 13 May 2005
Actual Committee Date	Thu 11 Aug 2005
Latest Neighbour Consultation Date	Not Available
Neighbour Consultation Expiry Date	Not Available
Standard Consultation Date	Not Available
Standard Consultation Expiry Date	Not Available
Last Advertised In Press Date	Fri 22 Apr 2005
Latest Advertisement Expiry Date	Fri 13 May 2005
Last Site Notice Posted Date	Not Available
Latest Site Notice Expiry Date	Not Available
Decision Made Date	Fri 19 Aug 2005
Decision Issued Date	Fri 19 Aug 2005
Permission Expiry Date	Thu 19 Aug 2010
Decision Printed Date	Fri 19 Aug 2005
Environmental Impact Assessment Received	Not Available
Target Determination Date	Thu 09 Jun 2005
Determination Deadline	Mon 13 Jun 2005

Related Information

There are 0 documents associated with this application.

There is 1 case associated with this application.

There is 1 property associated with this application.

Print Version

[Close Window](#) [Print](#)

Summary

Reference	04/01053/OUT
Alternative Reference	Not Available
Application Received	Thu 22 Jul 2004
Address	Garden Ground Of 6 Airlie Street Brechin Angus DD9 6JP
Proposal	Outline Erection of a Dwellinghouse
Status	Application Withdrawn
Appeal Status	Not Available
Appeal Decision	Not Available

Further Information

Application Type	Outline Application
Decision	Application Withdrawn
Actual Decision Level	Committee Decision
Expected Decision Level	Not Available
Case Officer	Ed Taylor
Parish	Brechin & District
Ward	Brechin West
District Reference	Not Available
Applicant Name	M Wilkie
Agent Name	A D Craig
Agent Company Name	Not Available
Agent Address	24a North Latch Road BRECHIN Angus DD9 6LE
Agent Phone Number	01356 625500

Environmental Assessment Requested No

Contacts

Ward Councillors

Councillor The Hon R J Leslie Melville

Address Little Deuchar BRECHIN Angus DD8 3RA

Important Dates

Application Received Date	Thu 22 Jul 2004
Application Validated Date	Mon 26 Jul 2004

Expiry Date	Fri 08 Oct 2004
Actual Committee Date	Thu 21 Oct 2004
Latest Neighbour Consultation Date	Not Available
Neighbour Consultation Expiry Date	Not Available
Standard Consultation Date	Not Available
Standard Consultation Expiry Date	Not Available
Last Advertised In Press Date	Fri 17 Sep 2004
Latest Advertisement Expiry Date	Fri 08 Oct 2004
Last Site Notice Posted Date	Not Available
Latest Site Notice Expiry Date	Not Available
Decision Made Date	Fri 22 Oct 2004
Decision Issued Date	Fri 22 Oct 2004
Permission Expiry Date	Mon 22 Oct 2007
Decision Printed Date	Fri 22 Oct 2004
Environmental Impact Assessment Received	Not Available
Target Determination Date	Mon 20 Sep 2004
Determination Deadline	Fri 24 Sep 2004

Related Information

There are 0 documents associated with this application.

There are 0 cases associated with this application.

There is 1 property associated with this application.

AC5



AC5





Pictures enclosed of the overgrown area as in paragraph ⑤.

In one of the pictures you can see top of the house there is a guest house below this and you can't see it for the over grown area. Picture number ①

Leddach House
4 Pearse Street
Brechin
Angus DD9 6JR
31 August, 2014

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

RECEIVED

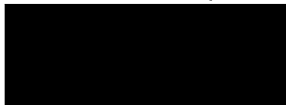
2 SEP 2014
ILKw

Dear Sir / Madam,

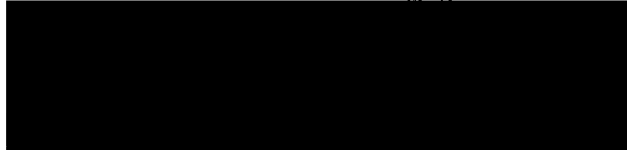
Ref 14/00644/PPPL: Proposed Development at Land Between 6 and 6A Airlie Street Brechin

Please find attached our representation re the above proposed development.

Yours sincerely,



Bill and Mary Fraser



**REPRESENTATIONS REGARDING THE PROPOSED DEVELOPMENT AT
LAND BETWEEN 6 AND 6A AIRLIE STREET BRECHIN
(Ref 14/00644/PPPL)**

Dear Sir / Madam,

As you no doubt will be aware, past applications for development at this site have been refused, including the last appeal to the Secretary of State. Your attention is drawn to the various documents in your possession that detail the reasons for rejection, and in particular the letter from the Scottish Executive dated 18 January 2006 (Ref P/PPA/120/163 and P/LBA/120/13), which was copied to Angus Council and persons who made written representations. You will also be aware that the proposed site for the erection of a dwelling house is within the curtilage of a substantial Category "B" listed building. Indeed there are a number of listed buildings in the immediate area of this proposed development.

In regard to the latest application to develop land between 6 and 6A Airlie Street, we feel that nothing material has changed since the last ruling to merit a U turn from the decision taken in 2006. Comments made then still apply. Indeed, we are led to believe that the plot size of the proposed development site may be further restricted as a result of disputed borders between No 6 Airlie Street and the owners of the plot in question.

Issues over access to the plot also remain, as it appears unlikely that permission will be granted by the current owners of the driveway to allow access to the proposed development site from Airlie Street. Notwithstanding access rights, it is also worth highlighting the obvious road safety issues in accessing Airlie Street at this location. We understand that both the Roads Dept and Police have expressed concerns in the past.

Breaching the boundary stone wall at Pearse Street, as an alternative option to gaining access from Airlie Street, was previously considered in the ruling of 2006. The ruling concluded that there would be harm to the setting of the main listed building and to the integrity of the boundary wall as a listed feature. As with Airlie Street, there are clearly road safety issues pertaining to access from Pearse Street. These include:

- impeded visibility splays due to the large wall, overflow street parking from e.g. the local garage and B & B establishments, and the erection of pillars or the like to form an entrance to the site.
- close proximity to the junction with Airlie Street and an adjacent garage entrance
- Pearse Street being a much used access route to Brechin High School by vehicles and children.

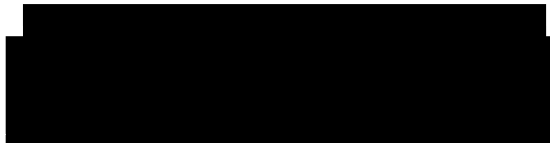
In addition, the loss of street parking space through the creation of an entrance by breaching the boundary wall will inevitably result in cars being parked further up Pearse Street, causing greater congestion and vehicles being parked on a hazardous bend half way up the street.

In conclusion, we feel there is no material change in circumstances surrounding this proposed development to warrant a change in outcome. Once again we urge you to refuse the granting of planning permission for the proposed development.

If you require further information or comment, please do not hesitate to get in touch. Contact details are shown on the covering letter.

Grateful if you can forward our representations to other relevant Angus Council departments who may be asked to comment on the above referenced planning application.

Yours sincerely,



William R. Fraser and Mary L. Fraser
31 August 2014

2a Pearse Street,

BRECHIN,

Angus.

DD9 6JR.

RECEIVED

22 AUG 2014

12 1121

Dear Sir,

In reply to Planning Application Ref. No. 14/00644/PPPL it has been 21 years since this planning application started, 1993 – 1995, 2004 – 2005 and now 2014 and has been refused several times and appeal has been refused by the Secretary of State.

This time is more serious as we are informed there is an on-going dispute between 6 Airlie Street and the proposed development plot over boundaries on the North and East sides which would seriously affect the size of the plot.

We are sure you are aware there is no access to this plot except over private ground and driveway, so we can see this being withdrawn or refused then re-applying to breach the listed wall in Pearse Street, all of which has been tried before and refused.

If access was obtained off Airlie Street, it has already been considered by the Roads Dept. and Police to be unsafe and does not meet standards for entrance over narrow pavement, a drive with poor vision opposite an emergency layby for Airlie Gardens (Sheltered Housing) and is also one of the main access roads to and from Maisondieu Primary School and Brechin High School. If breaching wall in Pearse Street was passed, it would also create problems at badly sighted junction from Pearse Street onto Airlie Street. This was all looked at in 1994 and traffic levels have increased very much especially in these streets.

In 1994 Angus Council refused this application. In 1995 an appeal was granted by the Secretary of State but with so many conditions it never went ahead. Ref. No. P/PPA/TA/330

Moving onto 2004:-

The mature trees were removed even with a 'preservation order' on them as was the boundary hedge between 6 Airlie Street and the plot.

Boundaries were removed to suit the plot's appeal for development and new fence was erected.

July 2004 – Application for development ground between 6 Airlie Street and 6a Airlie Street then withdrawn, no access and boundary disputes:-

REF. NO.04/01053/OUT.

31st March 2005 :- Application for demolition of wall in Pearse Street and dwelling house on Plot between 6 Airlie Street and 6a Airlie Street:-

REF. NO. 05/00576/LBC Refused and appeal dismissed.

31st March 2005 :-

REF. NO. 05/0547/FUL Refused and appeal dismissed.

Sept. 2005:-

REF. NO. 05/00017/ refused. Appeal dismissed by DPEA

October 2005:-

REF. NO. 05/00019/ refused, appeal dismissed by DPEA.

Unauthorised development, fence erected to divide plot has not been approved, listed building, flat

2014:- REF. NO. 14/00644/PPPL.

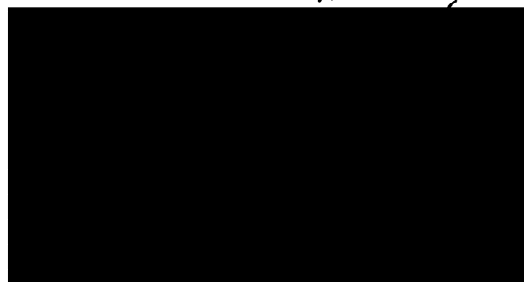
Nothing has changed. There is now a new dispute over boundaries on this plot. The plot is overgrown and a mess and needs tidying up but this is not the answer. If this application was allowed, it would have a detrimental effect on the Category 'B' listed building and surrounding area. It would also set a precedent for this preservation area and the floodgates would open.

At least one or two applications for development like this one have been refused recently in Pearse Street.

We can only hope that common sense will end this long going saga once and for all.

21 years is long enough to say 'No' means 'No'

Yours sincerely,



D. Nicoll

S.E. Nicoll.

2a Pearse Street,

BRECHIN,

Angus.

DD9 6JR.

RECEIVED

- 4 NOV 2014

/A/KW

Dear Sir,

In reply to Planning Application Ref. No. 14/00644/PPPL it has been 21 years since this planning application started, 1993 – 1995, 2004 – 2005 and now 2014 and has been refused several times and appeal has been refused by the Secretary of State.

If access was obtained off Airlie Street, it has already been considered by the Roads Dept. And the Police to be unsafe and does not meet standards for entrance over narrow pavement, a driveway with poor visibility opposite an emergency layby for Airlie Gardens (sheltered housing) and it is also one of the main access roads to and from Maisondieu Primary School and Brechin High School. This was all looked at in 1994 and traffic levels have increased very much especially in these streets.

I have enclosed photos of a small van and a family car trying to exit this driveway and as can be seen from these photos the vehicles are already across the pavement and out onto the road before the drivers get any view of the road or pavement therefore the exit is totally unfit for safety reasons.

When the Roads Dept and Police declared this exit unfit for purpose only No. 6 and No.6a Airlie Street used the driveway, 2 cars at most. As No.6 Airlie Street is now a B.B. establishment there can be as many as 6 cars and vans daily coming and going to and from these premises. Near misses at this exit occur on a daily basis. Even with re-alignment I do not think this exit could be made safe and meet standards of today. If your dept. was planning a visit to this site I suggest 3.15 – 4.15p.m. on school days as this is the ideal time to get a true picture of how busy this street gets.

In 1994 Angus Council refused this application. In 1995 an appeal was granted by the Secretary of State but with so many conditions it never went ahead. Ref. No. P/PPA/TA/330

2014:- REF. NO. 14/00644/PPPL.

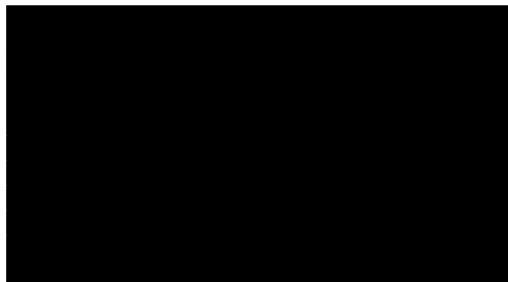
Nothing has changed. If this application was allowed, it would have a detrimental effect on the Category 'B' listed building and surrounding area. It would also set a precedent for this preservation area and the floodgates would open. There would be nothing stopping this developer or another developer acquiring existing land to the east side of No.6 Airlie Street and that would just be the start.

At least one or two applications for development like this one have been refused recently in Pearse Street.

This is our valid planning objections:-

- Impact on adjacent property and the local area.
- Privacy and amenity
- Visual appearance and compatibility
- Impact on traffic movements
- Road safety and access
- Effect on pedestrians and cyclists
- Creation of a precedent for more of the same.

Yours sincerely,



David Nicoll and Sheila Nicoll.

Moving onto 2004:-

The mature trees were removed even with a 'preservation order' on them as was the boundary hedge between 6 Airlie Street and the plot.

Boundaries were removed to suit the plot's appeal for development and new fence was erected.

July 2004 – Application for development ground between 6 Airlie Street and 6a Airlie Street then withdrawn, no access and boundary disputes:-

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31st March 2005 :-

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Sept. 2005:-

REF. NO. 05/00017/ refused. Appeal dismissed by DPEA

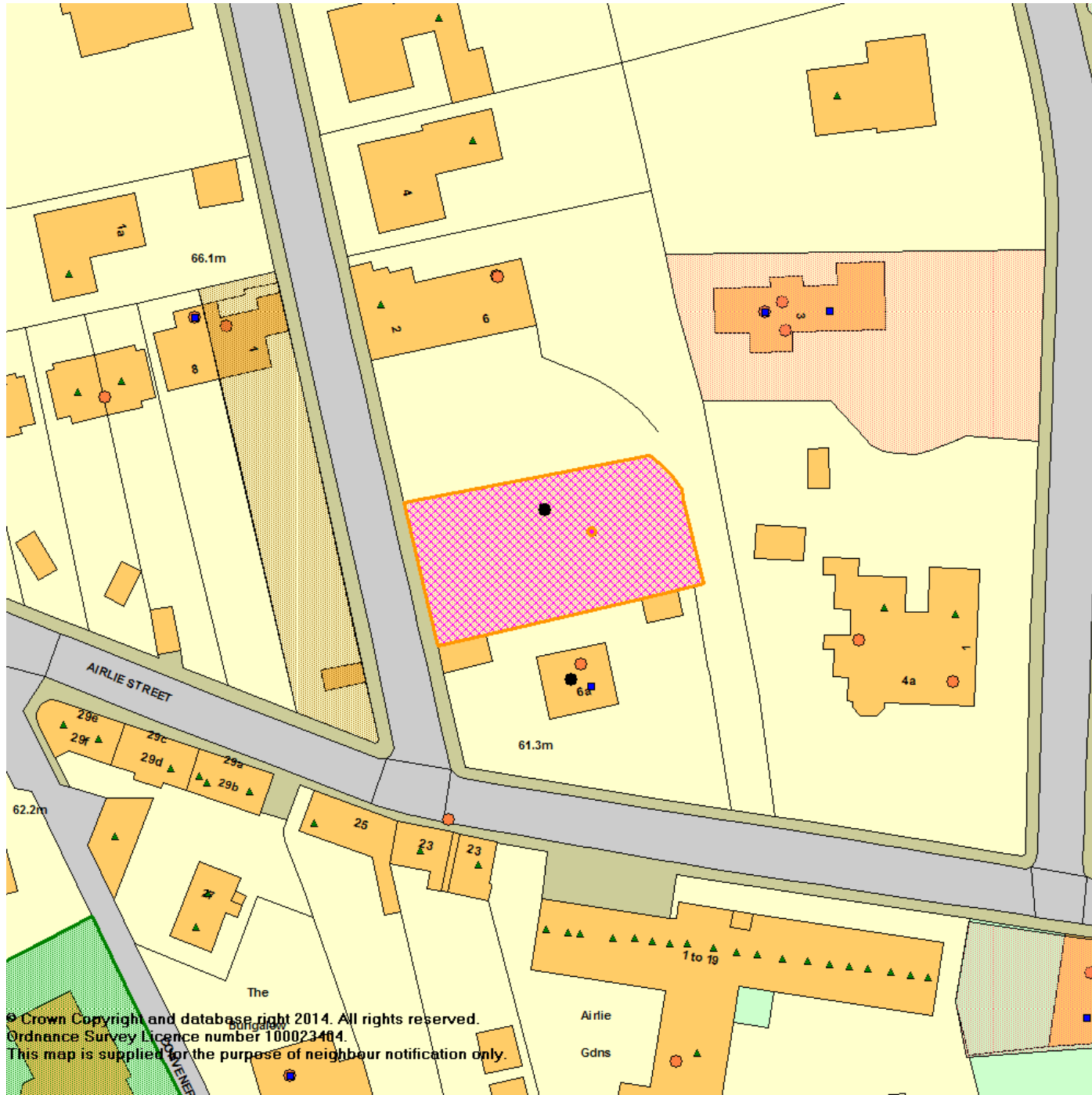
October 2005:-

REF. NO. 05/00019/ refused, appeal dismissed by DPEA.

Unauthorised development, fence erected to divide plot has not been approved, listed building, flat







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This map is supplied for the purpose of neighbour notification only.

PROPOSED NEW HOUSE AT 6 AIRLIE STREET, BRECHIN

FOR MR E. HAGGART

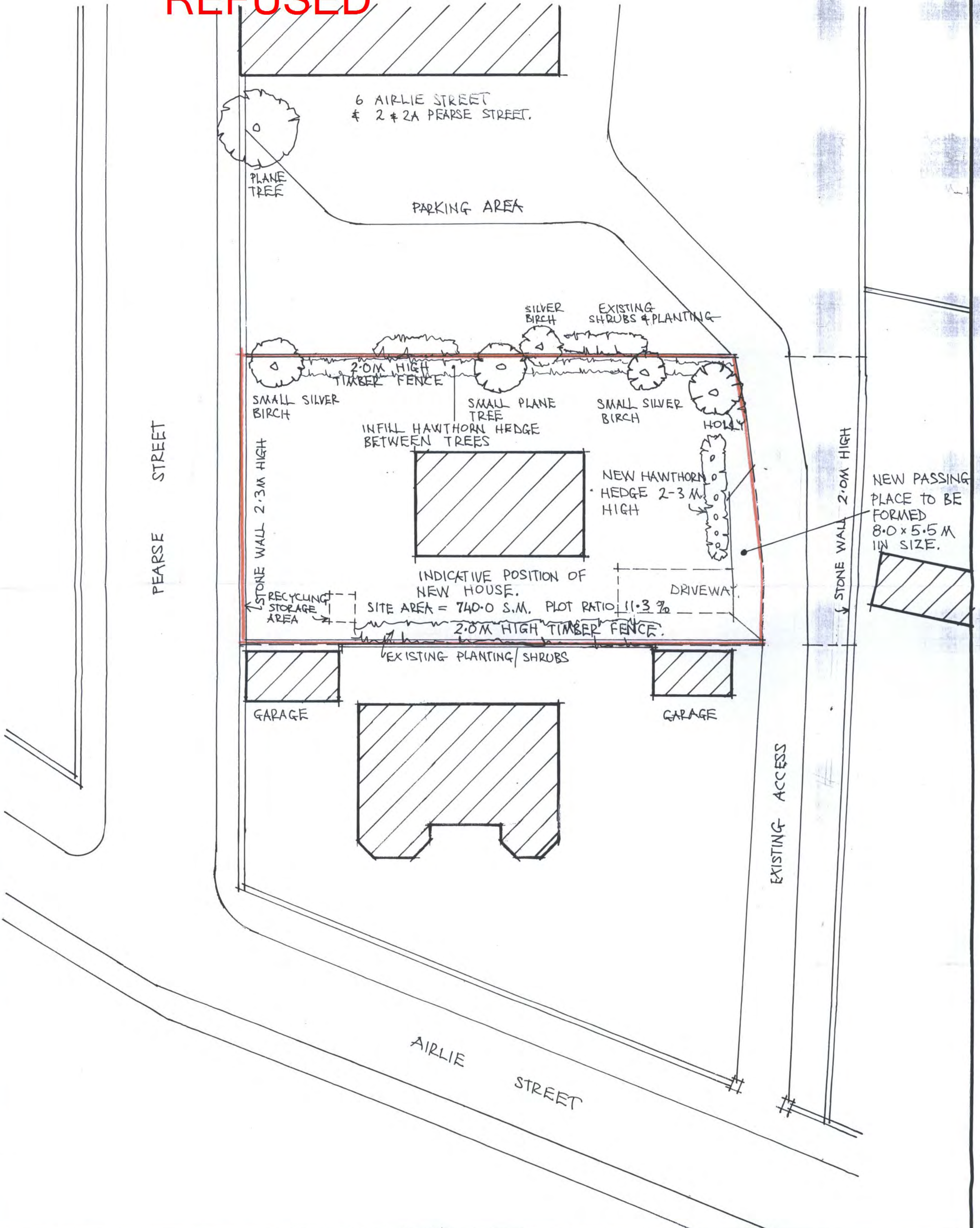
SCALE

1/250

DATE

JULY 2014

REFUSED



PROPOSED NEW HOUSE AT 6 AIRLIE STREET, BRECHIN

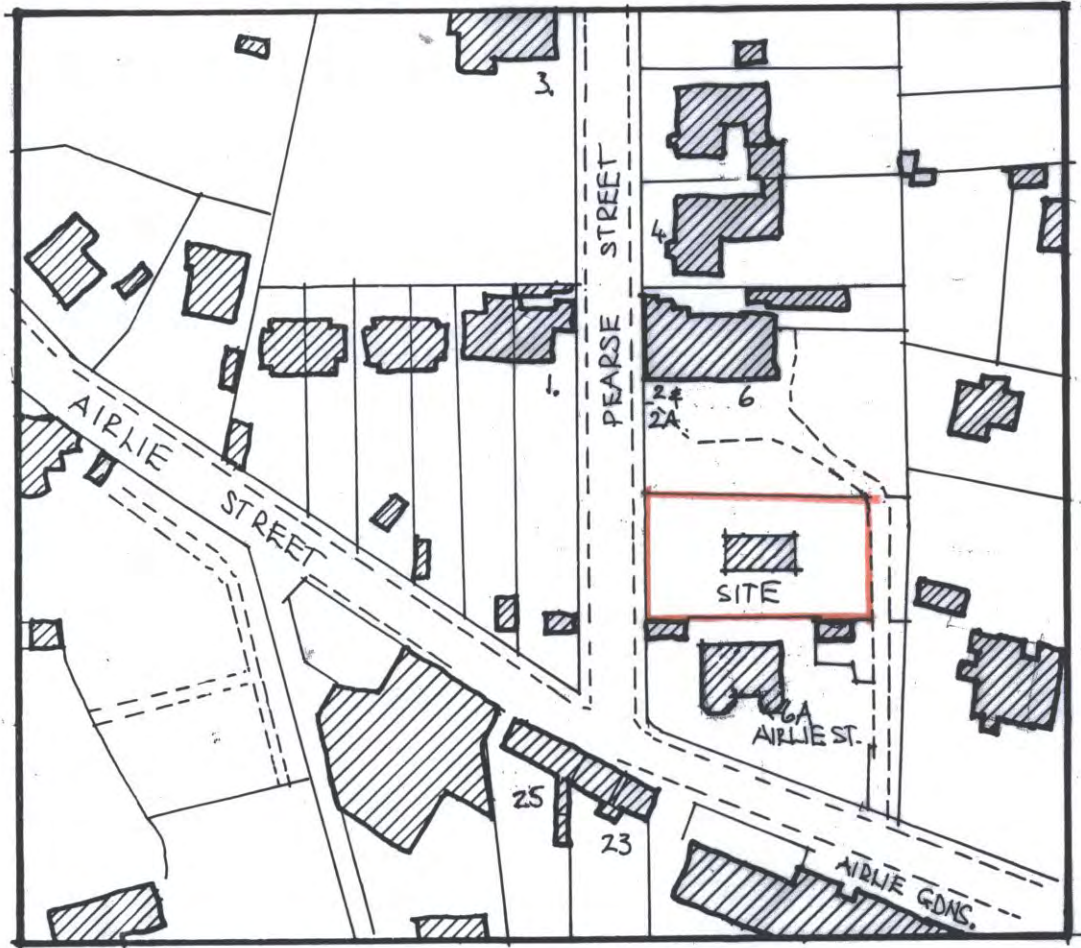
FOR MR E. HAGGART

SCALE 1/250, 1/1250

DATE

JULY 2014

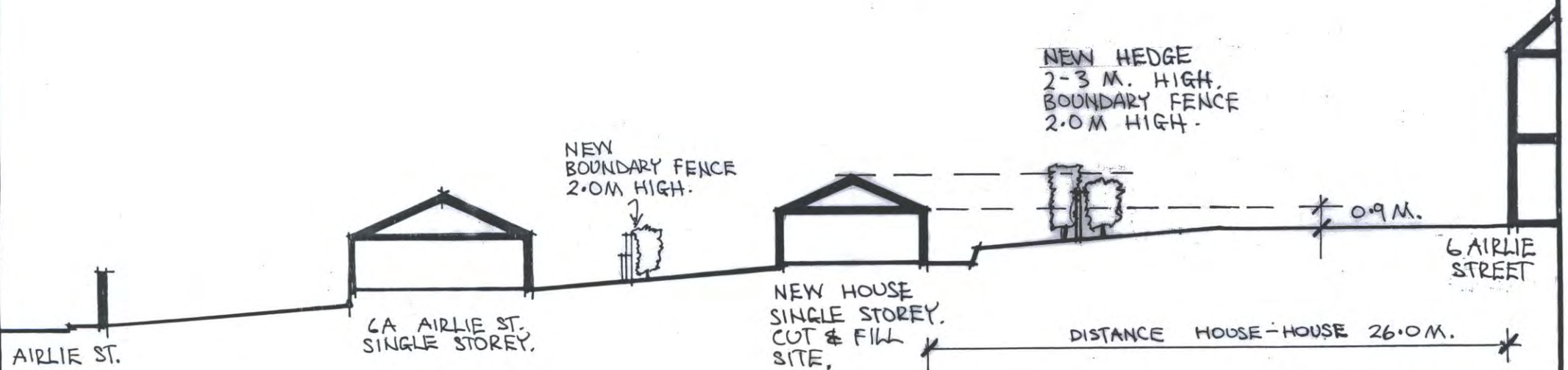
REFUSED



LOCATION PLAN

SCALE 1/1250

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SECTION THROUGH SITE

SCALE 1/250

SCA...

28 JUL 2014









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



PLANNING PERMISSION IN PRINCIPLE REFUSAL
REFERENCE 14/00644/PPPL

To Mr E Haggart
c/o A D Architecture & Design
Tigh-na-Bruach
Tayock
Brechin Road
Montrose
DD10 9LE

With reference to your application dated 8 October 2014 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

Erection of Dwellinghouse in Garden Ground at Land Between 6 And 6A Airlie Street Brechin for Mr E Haggart

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission in Principle (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docketed 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 ER16 of the Angus Local Plan Review 2009 as the proposed development would be located in front of an important elevation of a listed building and would have an adverse impact on the setting of that listed building.
- 2 That the application is contrary to Policies S3 and SC14 of the Angus Local Plan Review 2009 as the proposed development would have an adverse impact on the character and appearance of the existing property at 6 Airlie Street and the surrounding area.
- 3 That the application is contrary to Policy S6, Policy SC2 and Policy S1 of the Angus Local Plan Review 2009 as the access/egress to the site from Airlie Street is substandard and intensification of use of that access/egress with the public road would be detrimental to road traffic and pedestrian safety.

Amendments:

1. Amended site plan received on 17/12/14 which provides for the formation of a passing place adjacent to the existing access and within the application site boundary.

Informatives:

Dated this **6 March 2015**

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



SCOTTISH EXECUTIVE

DISMISSED

Development Department
Inquiry Reporters Unit

4 The Courtyard, Callendar Business Park
Callendar Road, FALKIRK FK1 1XR

DX 557005 FALKIRK

The Director of Planning & Transport
Angus Council
DX 530678
FORFAR

Telephone: 01324 696 451
Fax: 01324 696 444

seiru@scotland.gsi.gov.uk
www.scotland.gov.uk/planning_appeals/seiru

Our ref: P/PPA/120/163 And P/LBA/120/13

18 January 2006

RECEIVED

P

109 JH

Dear Sir/ Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PLANNING AND LISTED BUILDING CONSENT APPEALS: GARDEN GROUND
OF 6 AIRLIE STREET, BRECHIN, ANGUS DD9 6JP**

I enclose for your information a copy of the decision letter on these appeals .

Yours faithfully



CAROL-ANNE REDPATH

Enc



SCOTTISH EXECUTIVE

Development Department
Inquiry Reporters Unit

Fox Planning Consultancy
7 Brechin Road
Kirriemuir
Angus
DD8 4BX

4 The Courtyard
Callendar Business Park
Callendar Road
FALKIRK
FK1 1XR
DX 557005 Edinburgh - 20

Telephone: 01324 696 400
Fax: 01324 696 444

http://www.scotland.gov.uk/planning_appeals/seiru

Your ref: -
Our ref: P/PPA/120/163 and P/LBA/120/13

15 January 2006

Dear Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997: SECTION 18 AND SCHEDULE 3
PLANNING AND LISTED BUILDING CONSENT APPEALS BY MR MARSHALL WILKIE: ERECTION OF DWELLING-HOUSE AND PARTIAL DEMOLITION OF WALL TO FORM NEW ACCESS, AT 6 AIRLIE STREET, BRECHIN DD9 6JP**

1. I refer to your client's appeals, which I have been appointed to determine, against the refusal by Angus Council of both planning permission and listed building consent required for the above scheme. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 9 January 2006.

2. The appeal site is close to the north-west of the town centre of Brechin. It is within the once extensive grounds of a category B listed villa, sub-divided in the later 20th century. This villa stands with a southerly aspect at the north-west corner of its southward sloping grounds, with the west gable of a later extension hard against the footway of Pearse Street. The southern part of the grounds, next to Airlie Street, was split off in the 1960s for the building of a small bungalow, except for a retained access to the original house; this access passes close to the eastern boundary of the original plot until it curves westward and broadens into a gravelled forecourt in front of the original building. Some 21m south of the house, at a right angle to Pearse Street, a recently erected timber fence separates the forecourt and a grassed area to the south of that and the curve of the access road, from an approximate rectangle, about twice as long east-west as north-south, bounded to the south by the plot of the 1960s bungalow and to the east by the access to the original house. This rectangle comprises the appeal plot, and appears to have been left unmaintained for some time. The sandstone boundary wall to Airlie Street of the original plot, over 2m high, remains intact apart from a breach giving access to a small garage at the north-west corner of the plot of the bungalow. There are no remaining large trees in the appeal plot, though the base of a large tree can still be seen close to its



northern boundary, to the east of a line taken perpendicularly from the main door of the original building.

3. The listing description is: "Early 19th century villa. Ashlar faced with raised quoins. Originally symmetrical. 2-storey, 3-window to front to main block. Central Roman Doric columned porch and steps, flanked by 2 later three-light canted bays, cornice and blocking course raised at centre, piended slated roof. Rubble flanks with tall stacks partly rebuilt. Single storey one window wing to right with cornice and blocking course, piended slated roof. Left hand wing raised to 2 storey, first floor window rises through cornice and blocking course with dormer-head gablet. Ground and 2 first floor windows in pinned rubble west gable." The listing explicitly covers the boundary walls, including gate piers at the entrance to the driveway from Airlie Street.

4. The proposal is to build a three-bedroom single-storey house of rather complex plan, with projecting elements on all elevations. Roofing would be of natural slate, the 'frontage' (presumably to Pearse Street) would be of recess-pointed natural random stone, with off-white render elsewhere. The west elevation to Pearse Street would have a projecting gable south of centre; at the northern end of this projection, and with a roof slope shown as continuous with it, would be a pedimented portico. Windows to north and south of the portico are shown as being of different sizes and styles. Another feature of the proposal is the lack of any windows facing south. Windows would be timber sash-and-case 'look-alike'. At the south end of the frontage to Pearse Street a 3m wide opening would be formed in the boundary wall, allowing entry to an L-shaped parking and turning area in the south-west corner of the plot. The asymmetrically divided solid timber double gates would be fitted to new 0.4m square gate-posts topped by pyramidal copings. The southern gate-post would be about 0.35m from the garage belonging to the bungalow. The main 'amenity area' shown on plan would be to the east of the new house, bounded at the back by the access to the original building, and between the plot of the bungalow and the remaining grounds of the original house.

5. The applications for planning permission and, implicitly, for listed building consent were refused for the reasons: "(1) That the proposal to erect a dwelling-house within the curtilage of a category B listed building would be detrimental to the character and setting of the building, therefore failing to comply with the requirements of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. (2) That the proposal to erect a dwelling-house within the curtilage of a category B listed building would be detrimental to the character and setting of the building, therefore failing to comply with the Angus Local Plan policy ENV 31: Memorandum of Guidance on Listed Buildings and Conservation Areas, policy ENV 43: Curtilage Development and policy ENV 5: Development in Existing Built-up Areas."

6. In the local plan policy ENV 5 aims to allow, within defined settlements, only developments that accord with the Development Strategy and other policies in the plan; proposals leading to significant loss of amenity and character of the surrounding area are opposed. By policy ENV 31 the council "... will assess all development proposals which affect the built heritage in the context of the Memorandum of Guidance on Listed Buildings and Conservation Areas". Policy ENV 43 states: "*Within the curtilage of a Listed Building development proposals will not be permitted which adversely affect the setting of the building, in terms of scale, massing, form, siting, design and materials of construction. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls to provide access.*"

7. In June 1995 outline planning permission was granted on appeal (P/PPA/TA/330) for a house in a similar but not identical plot, described as of 0.05 ha. You have produced a copy of the decision letter. This notes an intention to site the house 25m from the "main house". A refusal reason, and a main issue, related to possible effects on "a number of important mature trees". None of the refusal

reasons referred to development plan policies. The Reporter's conclusions, in paragraph 10, referred to a "dense planting screen at the north end of the site ... bounded on its north side by a further ornamental border with further, lower, shrub planting". In paragraph 13 he referred in particular to two mature trees with boles outwith the site but canopies overhanging it, including a willow to the north. The grant of planning permission was subject to retention of the two trees.

8. **In support of the appeals** you comment that the site is of 680 m². It is unused and unkempt, and is not seen by the owner as part of his remaining garden area. The remaining garden in front of (i.e. south of) the listed building would be 21m deep by 43m wide. The locality has many 19th century stone-built villas but there is also late 20th century infill such as the bungalow immediately south of the site and a chalet-style house to the north-east. There are smaller, terraced houses on Airlie Street. The original villa of 6 Airlie Street was altered long ago by the addition of the extension to the west, now called 2 Pearse Street. The original garden has already been sub-divided to provide the plot for the bungalow and private spaces for the flats in the sub-divided main building. Planning permission is sought for a house of traditional style and materials; listed building consent is needed for partial demolition of the boundary wall which is included in the listing of no. 6, and for erection of the new gate pillars and gates.

9. The proposals should be assessed with regard to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (LBCAA), National Planning Policy Guideline (NPPG) 18, the Memorandum of Guidance on Listed Buildings and Conservation Areas (the Memorandum) and the previous appeal decision as material considerations. The new gate pillars and gates would maintain the continuity and solidity of the existing wall, in accordance with paragraph 1.8.2 of [Appendix 1 to] the Memorandum which advises against loss of large lengths of front boundary wall to enable vehicular access. There would still be some 35m of untouched wall between the gates and the main building.

10. There have been no significant changes to the site characteristics since 1995. The loss of some vegetation since then is not a serious handicap as new planting could be undertaken, such as a beech hedge around the north and east boundaries. The large trees had to be removed because of their poor condition, on the advice of a tree surgeon. The new house would be 22.5m from the listed building, which should be enough to match advice in paragraph 8.4.0 of Appendix 1 to the Memorandum. Because of the distance, its low roof height and its position on lower ground, the new house would add little to obstruction of views to the main façade that already takes places because of the bungalow. Also with regard to paragraph 8.4.0, the relationship of the listed building to Airlie Street would scarcely be affected, for similar reasons. There would still be a pleasing and appropriate approach to the listed building by the driveway from Airlie Street. The design of the new house would enhance the setting of the listed building. There would be no windows to north or south, which could impinge on the privacy of adjoining dwellings. After assessment against all relevant material considerations and policies, there can be no convincing objection to the scheme.

11. The **council** maintains that the listed building is a substantial two-storey villa which, for a proper setting, needs a curtilage of appropriate size. The original curtilage, with which the tall garden walls were in keeping, has already been diminished by the insertion of the bungalow in the later 20th century. To sub-divide it further and build another house in its grounds would reduce it to a disproportionate size. Paragraph 10.1.0 of [Appendix 1 to] the Memorandum notes that "development within the curtilage should always be regarded as affecting the setting", except where "the curtilage is very large and the new building will not be visible in any principal view either from or to the listed building". That exception would not apply in this case. The original curtilage of about 2940 m² was not "very large" and has already been reduced to 1890 m². The existence of the bungalow does not justify inserting another building in the remaining grounds, closer to the house

and affecting the listed boundary wall. Since the proposal is contrary to advice in the Memorandum, it is also contrary to local plan policy ENV 31.

12. Although no exception is taken to the proposed design and materials, the new house would be inappropriately placed in front of the main elevation of the listed building. The removal of the two large trees, on the site's eastern and northern boundaries, as well as other vegetation mentioned by the Reporter in 1995, has made the listed building more open to view and thus more sensitive to intrusive development. Besides these matters, the breach of the boundary wall would also be contrary to policy ENV 43. Loss of local amenity and character would be in conflict with the wide-ranging policy ENV 5.

13. Failure to maintain part of the grounds of the listed building is not a justification for unsuitable development. The proposal would leave an area of some 1210 m² in front of the listed building, of which 345 m² are allocated to vehicle movement and parking. The remaining private amenity ground for the occupants of the flats is split by the driveway, which is currently flanked by 1.8m high fencing. The once spacious landscaped grounds have thus undergone incremental enclosure and intensification of development. The chalet-style house to the north-east is not in the grounds of a listed building. The breach of the boundary wall for the bungalow's garage is a detraction from the listed structure, which should not be increased by a new breach. Advice in NPPG 18 to consider the impact of proposals on the features which justify listed status must count against the appeals.

14. Letters of **objection** or representation came from three addresses within or adjacent to the listed building and from one outwith Brechin. Concerns included legal questions over the appeal land; domination of the bungalow by the proposed house; loss of privacy for neighbours; out of character, 'squashed in' appearance of the new house; that breaching the wall would be against principles of conservation; harm to the character and setting of the listed building; dangerous access over a narrow footway used by many schoolchildren; and that the current development plan is more recent than the previous appeal decision.

15. A further letter from a household in the listed building notes that the house was divided in 1965 into three flats, each with substantial private ground; at the same time the orchard at the south end of the grounds became the plot for the bungalow. No. 6 had the ground floor, garden ground in front of the listed building, and the northern part of the driveway, but only access rights over the southern part next to the bungalow. 2 Pearse Street, comprising both floors in the western extension, took the former appeal site as garden ground, and only pedestrian right of access from Airlie Street. The site was marketed but not sold after the planning permission for the garden of no. 2 was granted on appeal. The applicant later bought no. 6 and removed trees, hedging and other boundary markers between the gardens of nos. 2 and 6. Later the dwelling at no. 2 was sold, but not the land. No. 6 has recently been for sale. From the particulars of sale it is evident that the present appeal site has grown 3m to the north and 5m to the east by comparison with the previous appeal site.

16. There were no objections to the proposal from the council's Director of Roads.

CONCLUSIONS

17. Section 64(1) of the LBCAA requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. In addition, sections 14(2) and 59(1) require, respectively, that in considering whether to grant listed building consent for any works and planning permission for a development which affects a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or

any features of special architectural or historic interest which it possesses. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires the determination of whether, or not, to grant planning permission to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise.

18. Accordingly, on the basis of the written submissions and the site inspection, I consider that the determining issues in these appeals are:

- whether the proposal would have an adverse effect on the building, its features or its setting; and, if so,
- whether the reasons put forward in support of the appeal justify the grant of listed building consent; and
- whether the development proposed in the application for planning permission conforms to the relevant provisions of the development plan, and, if not,
- whether an exception to the relevant provisions of the plan is justified by other material considerations.

19. However, it would be useful to consider first of all what is obviously an important material consideration, which may have a bearing on several of these issues: the previous planning permission granted on appeal. At over ten years old, this is of an age by which relevant factors are likely to have changed even if the site has not. However, it is evident that the sites of 1995 and 2006 are significantly different in dimensions both north-south and east-west. The space in front of the listed building has been reduced by about 3m and the space between the site and the driveway which affords oblique views to the main elevation of the listed building by about 5m. These changes would have a long-term effect on the spaciousness of the immediate curtilage of the listed building, once boundary features giving privacy to the new building were established. The proposed house has been moved some 2.5m nearer to the listed building, and is probably considerably larger than that indicated previously, since the present layout shows the house occupying a very considerable proportion of the larger plot.

20. At the same time, removal of what appears from the previous appeal decision to have been a substantial body of vegetation dividing the private areas belonging to nos. 2 and 6 has extended the 'visual curtilage' of the appeal building right down to the boundary with the bungalow; in this assessment I have disregarded what looks like only a temporary fence, and I consider it immaterial whether the two large trees had to be removed for safety reasons, though I have no reason to doubt that this was the case. Further differences, inevitably important in terms of section 25 of the main Act, are that development plan policies did not figure in that case and that the local plan policies now relied upon by the council post-date the previous appeal decision. Taking all these matters together, I have to conclude that the earlier decision can only have a limited influence on the present appeal, and it does not at all establish some irrevocable 'principle of development'.

21. I turn then to the first bullet-point issue. Given the current setting for the listed building and its original character as a villa in substantial grounds, I consider that the proposed further plot subdivision would leave the setting unsatisfactorily truncated, as displayed particularly by the awkwardly shaped and obviously residual patch of grass between the proposed plot boundary (nearer to the listed building than in 1995) and the gravel forecourt to the listed building. The new house, of complex shape and relatively large size for an insertion into a sub-divided villa plot, would despite the presence of the bungalow and high boundary walls further restrict views to the upper parts of the listed building from the public streets, and any feature giving reasonable privacy on the new plot's eastern boundary would restrict views from the driveway. Besides further restricting views to the listed building, the proposed house, with quite intricate and visually assertive rooflines, would be

very prominent at relatively close range in views from the listed building, also contrary to advice in the Memorandum. The breach in the boundary wall would be harmful to its visual integrity as a continuous boundary to the original plot, particularly since the remaining distance between it and the existing breach for the garage would be so slight that both would be seen together as a single, significant breach. Moreover, there could be no guarantee that the gates would not be left open for convenience, emphasising the breach in continuity. I conclude that there would be harm to the setting of the main listed building and to the integrity of the boundary wall as a listed feature.

22. On the second bullet-point issue, I am aware that in 1995 a proposed breach in the wall was found not to be a reason to refuse outline planning permission. However, there was in that letter no suggestion of a specific location for the breach; there appears to have been a possibility that use of the existing driveway would become available through a change of mind on the part of its owner, avoiding the need to breach the wall, but that is clearly not in prospect now; and that application was not one for listed building consent in which impact on the listed building must be directly addressed. Given my findings on the previous issue I do not consider that the harm caused by further breaching the wall can be disregarded to the extent of granting listed building consent.

23. On the third bullet-point issue, I am not persuaded that the proposed house would reduce levels of ordinary residential amenity for neighbours to below what ought to be expected in a prime residential area of a handsome small town. However, this would only be achieved by resorting to a windowless south elevation which would be greatly out of character with traditional styles of good quality housing and would add to the 'squeezed-in' impression that the house would give. Drawing together matters relevant to assessment under the development plan policies, I therefore do not find a significant loss of residential amenity, insofar as policy ENV 5 refers to that. However, policy ENV 31 is clearly failed because of the incompatibility with advice in the Memorandum. Under policy ENV 43 I find failure because of harm to the setting of the listed building in terms of scale and siting, and because of the position in front of an important elevation and the breach of a boundary wall to provide access. The latter is a point under which, without any requirement for subjective assessment, the proposal would be bound to fail the first test of section 25. Although the site is within a town, failure under policies ENV 31 and ENV 43, reinforced by harm to the amenity and character of the site's surroundings, also means failure under policy ENV 5.

24. On the final issue, there is nothing in NPPG 18 or the Memorandum which could support the planning appeal against the above adverse findings. As already noted, the previous appeal decision was in too different circumstances for it to be a strongly favourable consideration. I conclude that any favourable 'other material considerations' do not outweigh failure under provisions of the development plan.

25. I have taken account of all the other matters raised but find none that outweigh the considerations on which my decisions are based.

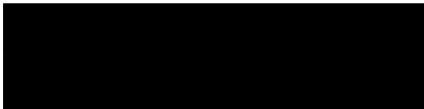
26. In exercise of the powers delegated to me I therefore **dismiss** your client's appeals and refuse to grant planning permission for the development and listed building consent for the works proposed in the joint application (Angus Council reference 05/00547/FUL) validated on 8 April 2005.

27. These decisions are final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 57 and 58 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and sections 37 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decisions if satisfied that these are not within the powers of the Act or that the applicant's interests

have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

28. This letter has been copied to Angus Council and to the persons who made written representations.

Yours faithfully



W M H PATTERSON
Reporter



SCOTTISH EXECUTIVE

DISMISSED

Development Department
Inquiry Reporters Unit

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www.scotland.gov.uk/planning_appeals/seiru

Our ref: P/PPA/120/163 And P/LBA/120/13

18 January 2006

RECEIVED

P

109 JH

Dear Sir/ Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PLANNING AND LISTED BUILDING CONSENT APPEALS: GARDEN GROUND
OF 6 AIRLIE STREET, BRECHIN, ANGUS DD9 6JP**

I enclose for your information a copy of the decision letter on these appeals .

Yours faithfully



CAROL-ANNE REDPATH

Enc



SCOTTISH EXECUTIVE

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Your ref: -
Our ref: P/PPA/120/163 and P/LBA/120/13

15 January 2006

Dear Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997: SECTION 18 AND SCHEDULE 3
PLANNING AND LISTED BUILDING CONSENT APPEALS BY MR MARSHALL WILKIE: ERECTION OF DWELLING-HOUSE AND PARTIAL DEMOLITION OF WALL TO FORM NEW ACCESS, AT 6 AIRLIE STREET, BRECHIN DD9 6JP**

1. I refer to your client's appeals, which I have been appointed to determine, against the refusal by Angus Council of both planning permission and listed building consent required for the above scheme. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 9 January 2006.

2. The appeal site is close to the north-west of the town centre of Brechin. It is within the once extensive grounds of a category B listed villa, sub-divided in the later 20th century. This villa stands with a southerly aspect at the north-west corner of its southward sloping grounds, with the west gable of a later extension hard against the footway of Pearse Street. The southern part of the grounds, next to Airlie Street, was split off in the 1960s for the building of a small bungalow, except for a retained access to the original house; this access passes close to the eastern boundary of the original plot until it curves westward and broadens into a gravelled forecourt in front of the original building. Some 21m south of the house, at a right angle to Pearse Street, a recently erected timber fence separates the forecourt and a grassed area to the south of that and the curve of the access road, from an approximate rectangle, about twice as long east-west as north-south, bounded to the south by the plot of the 1960s bungalow and to the east by the access to the original house. This rectangle comprises the appeal plot, and appears to have been left unmaintained for some time. The sandstone boundary wall to Airlie Street of the original plot, over 2m high, remains intact apart from a breach giving access to a small garage at the north-west corner of the plot of the bungalow. There are no remaining large trees in the appeal plot, though the base of a large tree can still be seen close to its



northern boundary, to the east of a line taken perpendicularly from the main door of the original building.

3. The listing description is: "Early 19th century villa. Ashlar faced with raised quoins. Originally symmetrical. 2-storey, 3-window to front to main block. Central Roman Doric columned porch and steps, flanked by 2 later three-light canted bays, cornice and blocking course raised at centre, piended slated roof. Rubble flanks with tall stacks partly rebuilt. Single storey one window wing to right with cornice and blocking course, piended slated roof. Left hand wing raised to 2 storey, first floor window rises through cornice and blocking course with dormer-head gablet. Ground and 2 first floor windows in pinned rubble west gable." The listing explicitly covers the boundary walls, including gate piers at the entrance to the driveway from Airlie Street.

4. The proposal is to build a three-bedroom single-storey house of rather complex plan, with projecting elements on all elevations. Roofing would be of natural slate, the 'frontage' (presumably to Pearse Street) would be of recess-pointed natural random stone, with off-white render elsewhere. The west elevation to Pearse Street would have a projecting gable south of centre; at the northern end of this projection, and with a roof slope shown as continuous with it, would be a pedimented portico. Windows to north and south of the portico are shown as being of different sizes and styles. Another feature of the proposal is the lack of any windows facing south. Windows would be timber sash-and-case 'look-alike'. At the south end of the frontage to Pearse Street a 3m wide opening would be formed in the boundary wall, allowing entry to an L-shaped parking and turning area in the south-west corner of the plot. The asymmetrically divided solid timber double gates would be fitted to new 0.4m square gate-posts topped by pyramidal copings. The southern gate-post would be about 0.35m from the garage belonging to the bungalow. The main 'amenity area' shown on plan would be to the east of the new house, bounded at the back by the access to the original building, and between the plot of the bungalow and the remaining grounds of the original house.

5. The applications for planning permission and, implicitly, for listed building consent were refused for the reasons: "(1) That the proposal to erect a dwelling-house within the curtilage of a category B listed building would be detrimental to the character and setting of the building, therefore failing to comply with the requirements of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. (2) That the proposal to erect a dwelling-house within the curtilage of a category B listed building would be detrimental to the character and setting of the building, therefore failing to comply with the Angus Local Plan policy ENV 31: Memorandum of Guidance on Listed Buildings and Conservation Areas, policy ENV 43: Curtilage Development and policy ENV 5: Development in Existing Built-up Areas."

6. In the local plan policy ENV 5 aims to allow, within defined settlements, only developments that accord with the Development Strategy and other policies in the plan; proposals leading to significant loss of amenity and character of the surrounding area are opposed. By policy ENV 31 the council "... will assess all development proposals which affect the built heritage in the context of the Memorandum of Guidance on Listed Buildings and Conservation Areas". Policy ENV 43 states: "Within the curtilage of a Listed Building development proposals will not be permitted which adversely affect the setting of the building, in terms of scale, massing, form, siting, design and materials of construction. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls to provide access."

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reasons referred to development plan policies. The Reporter's conclusions, in paragraph 10, referred to a "dense planting screen at the north end of the site ... bounded on its north side by a further ornamental border with further, lower, shrub planting". In paragraph 13 he referred in particular to two mature trees with boles outwith the site but canopies overhanging it, including a willow to the north. The grant of planning permission was subject to retention of the two trees.

8. **In support of the appeals** you comment that the site is of 680 m². It is unused and unkempt, and is not seen by the owner as part of his remaining garden area. The remaining garden in front of (i.e. south of) the listed building would be 21m deep by 43m wide. The locality has many 19th century stone-built villas but there is also late 20th century infill such as the bungalow immediately south of the site and a chalet-style house to the north-east. There are smaller, terraced houses on Airlie Street. The original villa of 6 Airlie Street was altered long ago by the addition of the extension to the west, now called 2 Pearse Street. The original garden has already been sub-divided to provide the plot for the bungalow and private spaces for the flats in the sub-divided main building. Planning permission is sought for a house of traditional style and materials; listed building consent is needed for partial demolition of the boundary wall which is included in the listing of no. 6, and for erection of the new gate pillars and gates.

9. The proposals should be assessed with regard to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (LBCAA), National Planning Policy Guideline (NPPG) 18, the Memorandum of Guidance on Listed Buildings and Conservation Areas (the Memorandum) and the previous appeal decision as material considerations. The new gate pillars and gates would maintain the continuity and solidity of the existing wall, in accordance with paragraph 1.8.2 of [Appendix 1 to] the Memorandum which advises against loss of large lengths of front boundary wall to enable vehicular access. There would still be some 35m of untouched wall between the gates and the main building.

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16. There were no objections to the proposal from the council's Director of Roads.

CONCLUSIONS

17. Section 64(1) of the LBCAA requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. In addition, sections 14(2) and 59(1) require, respectively, that in considering whether to grant listed building consent for any works and planning permission for a development which affects a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or

any features of special architectural or historic interest which it possesses. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires the determination of whether, or not, to grant planning permission to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise.

18. Accordingly, on the basis of the written submissions and the site inspection, I consider that the determining issues in these appeals are:

- whether the proposal would have an adverse effect on the building, its features or its setting; and, if so,
- whether the reasons put forward in support of the appeal justify the grant of listed building consent; and
- whether the development proposed in the application for planning permission conforms to the relevant provisions of the development plan, and, if not,
- whether an exception to the relevant provisions of the plan is justified by other material considerations.

19. However, it would be useful to consider first of all what is obviously an important material consideration, which may have a bearing on several of these issues: the previous planning permission granted on appeal. At over ten years old, this is of an age by which relevant factors are likely to have changed even if the site has not. However, it is evident that the sites of 1995 and 2006 are significantly different in dimensions both north-south and east-west. The space in front of the listed building has been reduced by about 3m and the space between the site and the driveway which affords oblique views to the main elevation of the listed building by about 5m. These changes would have a long-term effect on the spaciousness of the immediate curtilage of the listed building, once boundary features giving privacy to the new building were established. The proposed house has been moved some 2.5m nearer to the listed building, and is probably considerably larger than that indicated previously, since the present layout shows the house occupying a very considerable proportion of the larger plot.

20. At the same time, removal of what appears from the previous appeal decision to have been a substantial body of vegetation dividing the private areas belonging to nos. 2 and 6 has extended the 'visual curtilage' of the appeal building right down to the boundary with the bungalow; in this assessment I have disregarded what looks like only a temporary fence, and I consider it immaterial whether the two large trees had to be removed for safety reasons, though I have no reason to doubt that this was the case. Further differences, inevitably important in terms of section 25 of the main Act, are that development plan policies did not figure in that case and that the local plan policies now relied upon by the council post-date the previous appeal decision. Taking all these matters together, I have to conclude that the earlier decision can only have a limited influence on the present appeal, and it does not at all establish some irrevocable 'principle of development'.

21. I turn then to the first bullet-point issue. Given the current setting for the listed building and its original character as a villa in substantial grounds, I consider that the proposed further plot subdivision would leave the setting unsatisfactorily truncated, as displayed particularly by the awkwardly shaped and obviously residual patch of grass between the proposed plot boundary (nearer to the listed building than in 1995) and the gravel forecourt to the listed building. The new house, of complex shape and relatively large size for an insertion into a sub-divided villa plot, would despite the presence of the bungalow and high boundary walls further restrict views to the upper parts of the listed building from the public streets, and any feature giving reasonable privacy on the new plot's eastern boundary would restrict views from the driveway. Besides further restricting views to the listed building, the proposed house, with quite intricate and visually assertive rooflines, would be

very prominent at relatively close range in views from the listed building, also contrary to advice in the Memorandum. The breach in the boundary wall would be harmful to its visual integrity as a continuous boundary to the original plot, particularly since the remaining distance between it and the existing breach for the garage would be so slight that both would be seen together as a single, significant breach. Moreover, there could be no guarantee that the gates would not be left open for convenience, emphasising the breach in continuity. I conclude that there would be harm to the setting of the main listed building and to the integrity of the boundary wall as a listed feature.

22. On the second bullet-point issue, I am aware that in 1995 a proposed breach in the wall was found not to be a reason to refuse outline planning permission. However, there was in that letter no suggestion of a specific location for the breach; there appears to have been a possibility that use of the existing driveway would become available through a change of mind on the part of its owner, avoiding the need to breach the wall, but that is clearly not in prospect now; and that application was not one for listed building consent in which impact on the listed building must be directly addressed. Given my findings on the previous issue I do not consider that the harm caused by further breaching the wall can be disregarded to the extent of granting listed building consent.

23. On the third bullet-point issue, I am not persuaded that the proposed house would reduce levels of ordinary residential amenity for neighbours to below what ought to be expected in a prime residential area of a handsome small town. However, this would only be achieved by resorting to a windowless south elevation which would be greatly out of character with traditional styles of good quality housing and would add to the 'squeezed-in' impression that the house would give. Drawing together matters relevant to assessment under the development plan policies, I therefore do not find a significant loss of residential amenity, insofar as policy ENV 5 refers to that. However, policy ENV 31 is clearly failed because of the incompatibility with advice in the Memorandum. Under policy ENV 43 I find failure because of harm to the setting of the listed building in terms of scale and siting, and because of the position in front of an important elevation and the breach of a boundary wall to provide access. The latter is a point under which, without any requirement for subjective assessment, the proposal would be bound to fail the first test of section 25. Although the site is within a town, failure under policies ENV 31 and ENV 43, reinforced by harm to the amenity and character of the site's surroundings, also means failure under policy ENV 5.

24. On the final issue, there is nothing in NPPG 18 or the Memorandum which could support the planning appeal against the above adverse findings. As already noted, the previous appeal decision was in too different circumstances for it to be a strongly favourable consideration. I conclude that any favourable 'other material considerations' do not outweigh failure under provisions of the development plan.

25. I have taken account of all the other matters raised but find none that outweigh the considerations on which my decisions are based.

26. In exercise of the powers delegated to me I therefore **dismiss** your client's appeals and refuse to grant planning permission for the development and listed building consent for the works proposed in the joint application (Angus Council reference 05/00547/FUL) validated on 8 April 2005.

27. These decisions are final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 57 and 58 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and sections 37 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decisions if satisfied that these are not within the powers of the Act or that the applicant's interests

have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

28. This letter has been copied to Angus Council and to the persons who made written representations.

Yours faithfully



W M H PATTERSON
Reporter

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

**ERECTION OF DWELLINGHOUSE IN GARDEN GROUND AT LAND
BETWEEN 6 AND 6A AIRLIE STREET, BRECHIN**

APPLICATION NO 14/00644/PPPL

APPLICANT'S SUBMISSION

- ITEM 1** Notice of Review
- ITEM 2** Application Drawings – Site and Location Plans and Site Section
- ITEM 3** Planning Refusal 2015
- ITEM 4** Planning Appeal Approval 1995
- ITEM 5** Planning Appeal Refusal 2006
- ITEM 6** Pages referred to from Angus Local Plan 2009
- ITEM 7** Advice Note 14 – Single Plot Residential Development
- ITEM 8** Reasons for Review
- ITEM 9** Report from Roads Department

NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments
 The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013
 The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR	Ref No.	
Forename	F	Forename	
Surname	HAGGART	Surname	
Company Name		Company Name	A.D. ARCHITECTURE & DESIGN
Building No./Name		Building No./Name	TIGH-NA-BRUACH
Address Line 1		Address Line 1	TAYOCK
Address Line 2		Address Line 2	BRECHIN ROAD
Town/City		Town/City	MONTROSE
Postcode		Postcode	DD10 9LE
Telephone		Telephone	01674 674336
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	ANGUS COUNCIL		
Planning authority's application reference number	14 / 00644 / PPPL		
Site address	LAND BETWEEN 6 & 6A AIRLIE STREET BRECHIN		
Description of proposed development	PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF DWELLINGHOUSE.		

Date of application

8 | 10 | 14

Date of decision (if any)

6 | 3 | 15

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

- Application for planning permission (including householder application)
- Application for planning permission in principle
- Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)
- Application for approval of matters specified in conditions

5. Reasons for seeking review

- Refusal of application by appointed officer
- Failure by appointed officer to determine the application within the period allowed for determination of the application
- Conditions imposed on consent by appointed officer

6. 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.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- Further written submissions
- One or more hearing sessions
- Site inspection
- Assessment of review documents only, with no further procedure

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

[Empty rectangular box for explanation]

7. Site inspection

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

- Can the site be viewed entirely from public land?
- Is it possible for the site to be accessed safely, and without barriers to entry?

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ENCLOSED STATEMENT

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes No

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

- 1/ APPLICATION DRAWINGS - SITE & LOCATION PLANS & SITE SECTION
- 2/ PLANNING REFUSAL 2015
- 3/ PLANNING APPEAL APPROVAL 1995
- 4/ PLANNING APPEAL REFUSAL 2006
- 5/ PAGES REFERRED TO FROM ANGUS LOCAL PLAN 2009
- 6/ ADVICE NOTE 14 - SINGLE PLOT RESIDENTIAL DEVELOPMENT
- 7/ REASONS FOR REVIEW REPORT
- 8/ REPORTS FROM ROADS DEPT.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

Statement of your reasons for requesting a review

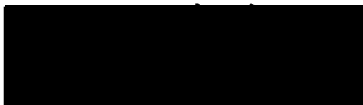
All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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 from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:



Name:

AUSTAIR GORDON

Date:

24/5/15

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

PROPOSED NEW HOUSE AT 6 AIRLIE STREET, BRECHIN

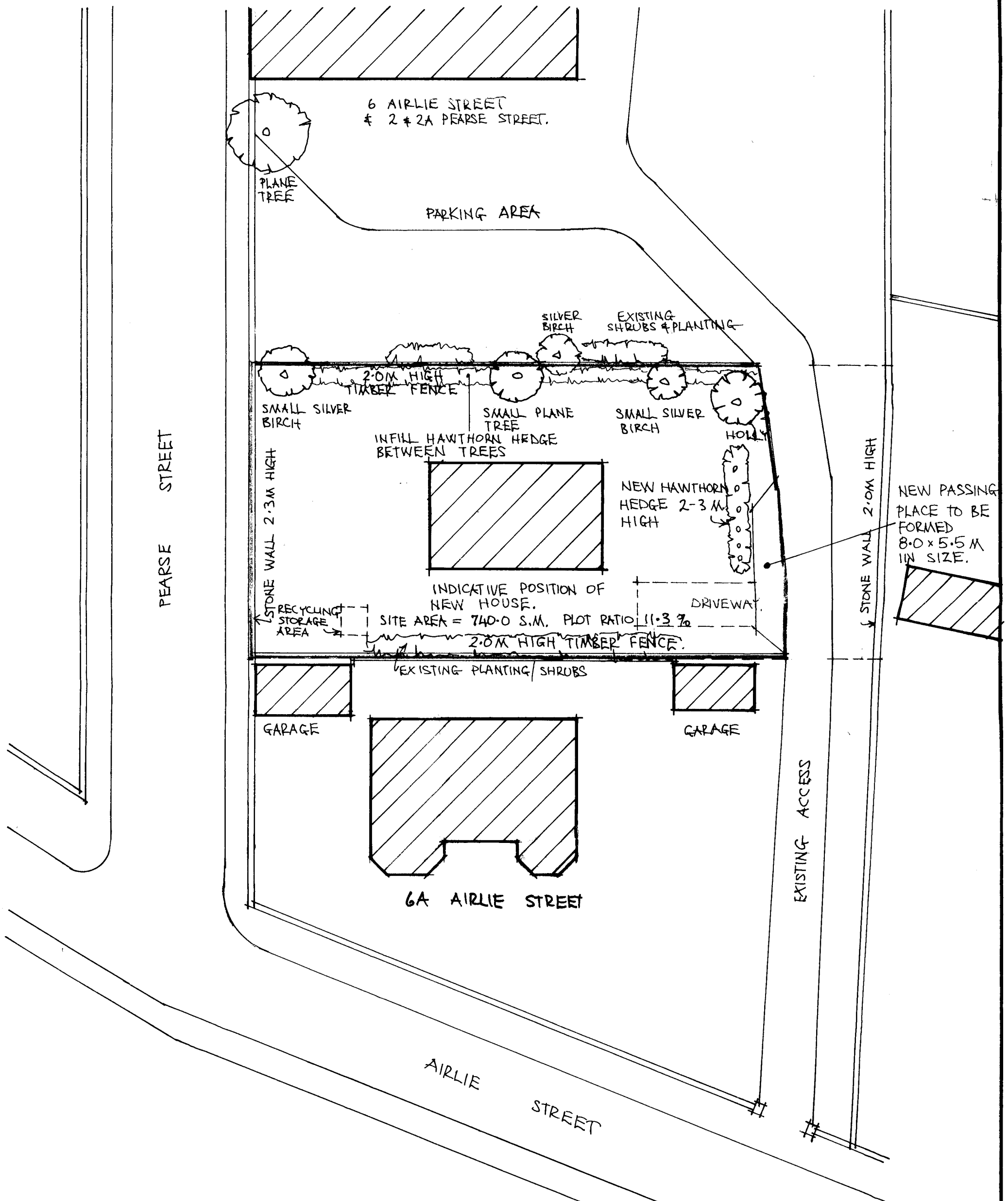
FOR MR E. HAGGART

SCALE

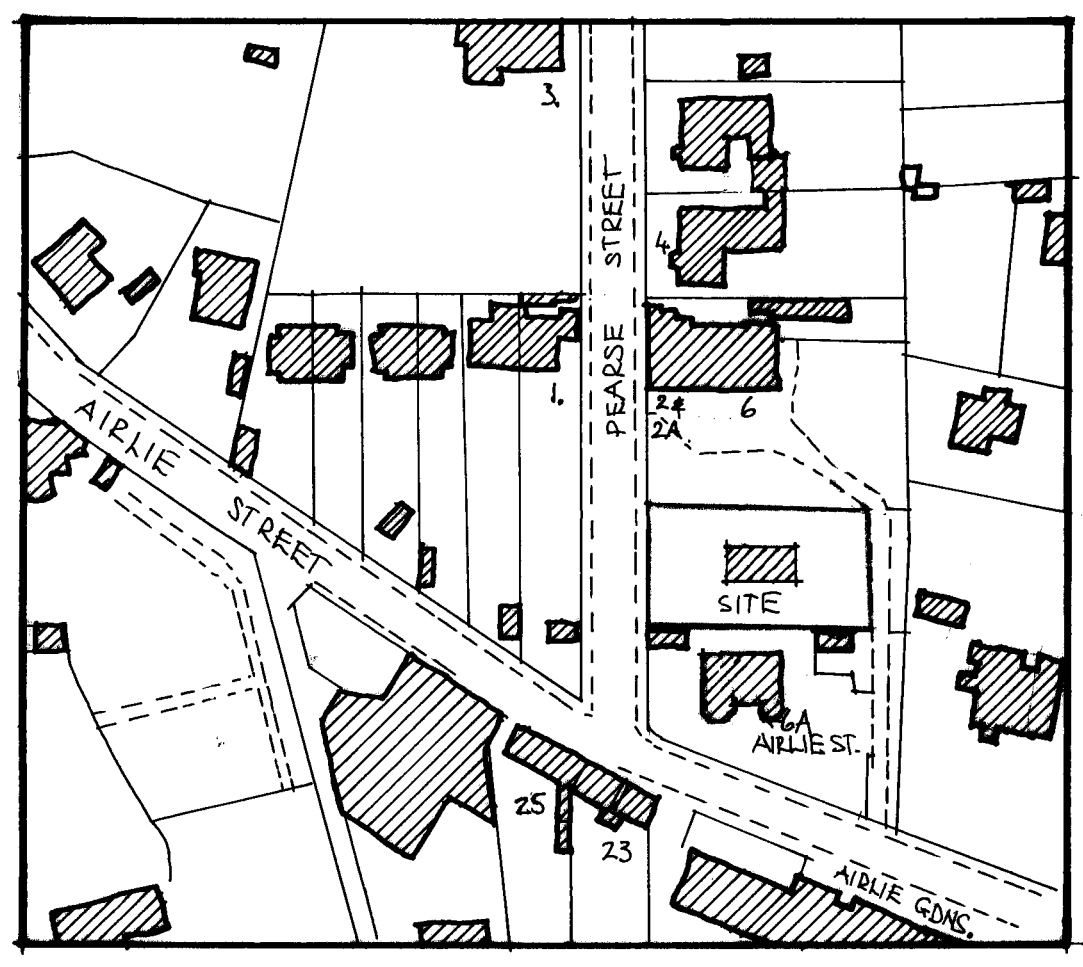
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DATE

JULY 2014

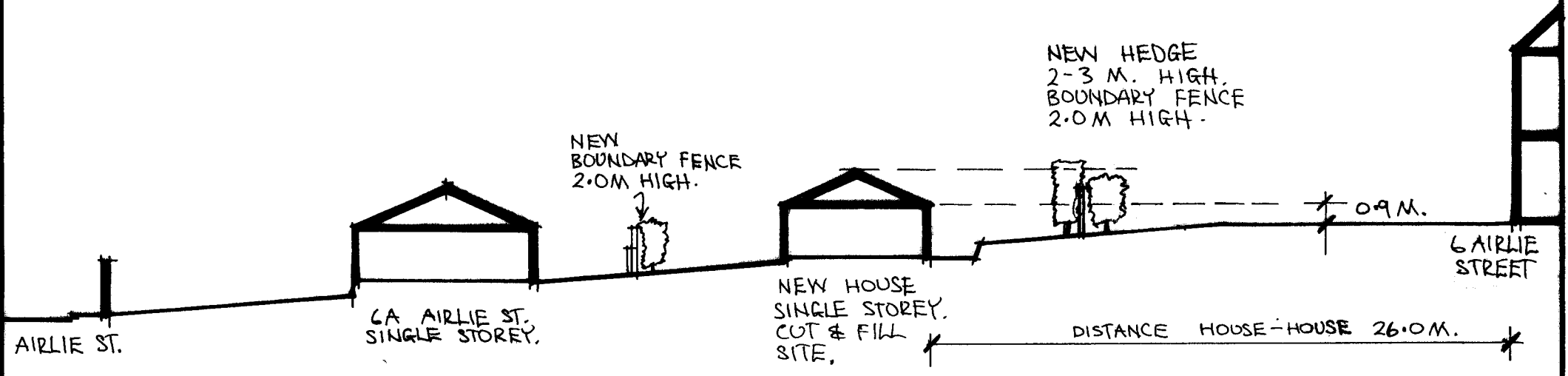


PROPOSED NEW HOUSE AT 6 AIRLIE STREET, BRECHIN
 FOR MR E. HAGGART
 SCALE 1/250, 1/1250 DATE JULY 2014



LOCATION PLAN

SCALE 1/1250



SECTION THROUGH SITE

SCALE 1/250

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



PLANNING PERMISSION IN PRINCIPLE REFUSAL
REFERENCE 14/00644/PPPL

To **Mr E Haggart**
c/o A D Architecture & Design
Tigh-na-Bruach
Tayock
Brechin Road
Montrose
DD10 9LE

With reference to your application dated 8 October 2014 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

Erection of Dwellinghouse in Garden Ground at Land Between 6 And 6A Airlie Street Brechin for Mr E Haggart

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission in Principle (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docketed 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 ER16 of the Angus Local Plan Review 2009 as the proposed development would be located in front of an important elevation of a listed building and would have an adverse impact on the setting of that listed building.
- 2 That the application is contrary to Policies S3 and SC14 of the Angus Local Plan Review 2009 as the proposed development would have an adverse impact on the character and appearance of the existing property at 6 Airlie Street and the surrounding area.
- 3 That the application is contrary to Policy S6, Policy SC2 and Policy S1 of the Angus Local Plan Review 2009 as the access/egress to the site from Airlie Street is substandard and intensification of use of that access/egress with the public road would be detrimental to road traffic and pedestrian safety.

Amendments:

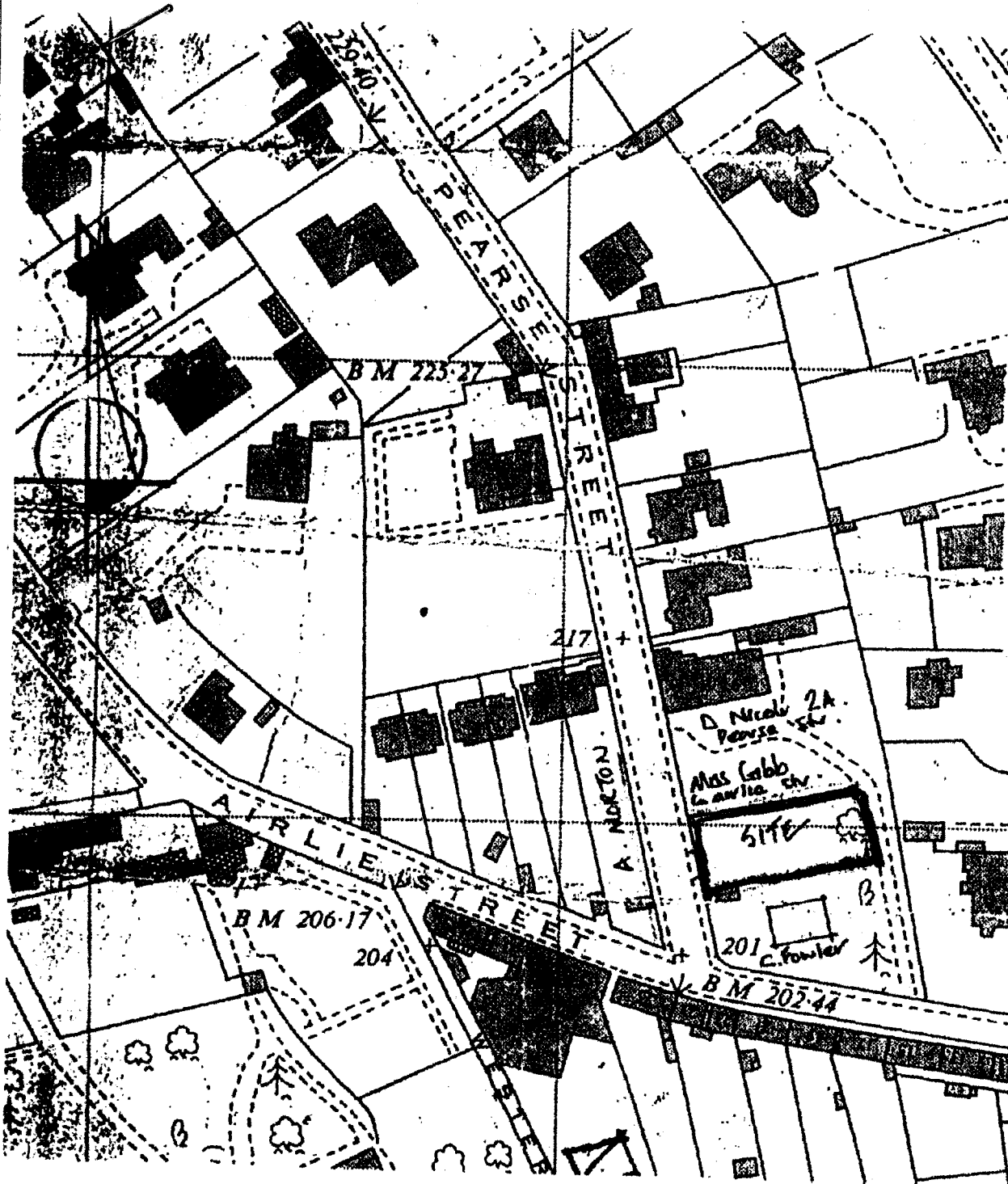
1. Amended site plan received on 17/12/14 which provides for the formation of a passing place adjacent to the existing access and within the application site boundary.

Informatives:

red this **6 March 2015**

[REDACTED]

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

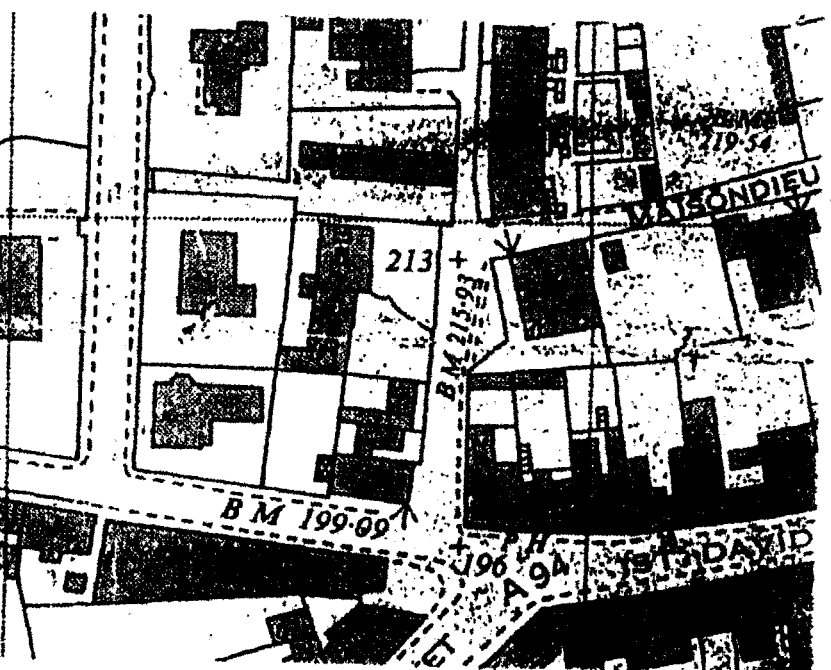


Job Title: **PROPOSED HOUSE PLOT AT PEARSE STR. BRECHIN FOR P + M PROPERTIES**

Drawing Title: **LOCATION PLAN.**

Scale: **1:1250** Date: **APV '93**

B ROGER & YOUNG
 CHARTERED ARCHITECT · SURVEYORS
 9 Macgregor Street · Brechin · Angus · DD9 6AB



THE SCOTTISH OFFICE

Inquiry Reporters

2 Greenside Lane
Edinburgh EH1 3AG

Telephone 031-244 5666
Fax 031-244 5680

K W Robertson Esq



Our Ref: P/PPA/TA/330

5 June 1995

Dear Sir

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972: SECTION 33 AND SCHEDULE 7

APPEAL BY P & M PROPERTIES: PEARSE STREET, BRECHIN

1. I refer to your client's appeal, which I have been appointed to determine, against the decision of the Angus District Council to refuse outline planning permission for the erection of a dwellinghouse at the above address. I made an accompanied inspection of the appeal site and surrounding area on 22 February 1995 and have considered the written submissions of the parties on the matter. For the reasons set out in paragraphs 8 to 15 below, I have decided to sustain the appeal.

2. The appeal site is a 0.05ha, south-sloping, rectangular area of ground within the front garden of the two-storey dwellinghouse identified as 2 Pearse Street and 6 Airlie Street, Brechin. The property is listed Category 'B' in the Secretary of State's List of Buildings of Special Architectural or Historic Interest and has been split into flats. The house sits at the rear of its feu adjacent to Pearse Street, which runs down the west side of the property. Vehicular access to the existing house is taken by a driveway leading from the east end of the south boundary, off Airlie Street. A bungalow has been built within former garden ground at the south end of the feu, facing Airlie Street. The appeal site is bounded to the north by a line of dense shrubs, to the west by a 3m high stone wall at the back of the Pearse Street foot-pavement, to the south by a larch-lap fence forming the rear boundary of the bungalow, and to the east by a footpath which runs parallel to the driveway. The proposal is to construct a further dwellinghouse between the two existing properties, with access gained from Pearse Street, by creating an entrance to the site through the existing stone wall.

3. The planning application was refused for the reasons,

[1] that the proposal, if approved, could lead to other applications of a similar nature to the detriment of the visual amenity of the area;

- [1] that the proposal, if approved, would be detrimental to the amenity currently enjoyed by the adjacent residents;
- [3] that the proposal would visually detract from the character of a listed building;
- [4] that the proposal would be prejudicial to and seriously injure the low density and high amenity presently enjoyed in the area; and
- [5] that the proposal, if approved, would place at risk the future survival of a number of important mature trees.

4. In support of your client's appeal, you claim that the house would be sited and designed in sympathy with the area in general and the listed building in particular. By locating it 25m from the main house and 10m from the modern bungalow at the south end, it would enhance the setting of the listed building by partially screening the bungalow. No precedent would be created, as there is no other site of this size in the area. In terms of density, the adjacent residential areas accommodate between 20 and 25 houses/ha so the proposal would not be excessive. The proposed house would not affect the privacy of adjacent properties, nor any of the trees around the site. The access through the wall, if designed with pillars and a solid gate, would be visually acceptable as part of the street scene.

5. The district council insists that the submitted plan did not show how access to the site was to be obtained and in discussions, it became clear that the applicant could not use the existing driveway. The subsequent plans which show how access could be taken from Pearse Street in order to reduce damage and visual intrusion do not therefore form part of the application. The council refers to the Memorandum of Guidance on Listed Buildings and Conservation Areas issued by Historic Scotland and to its own Advice Note No 14 entitled "Single Plot Residential Development"; the former advises against development in the front garden of large suburban houses which would destroy the relationship of the house to the street, while the latter document advises against the insertion of a small house plot in a medium density area if the development is likely to look out of place or squeezed in.

6. Further concerns are raised in connection with the provision of two car parking spaces, as an integral garage would necessarily increase the size of the house. Boundary enclosures are also referred to, as well as the matters already raised in the reasons for refusal. The district council does not consider that the bungalow already built in the garden of the listed building affects the situation, as it is further removed from the facade of the building; nor does it accept that the proposal would enhance the setting of the existing house as you suggest. The council argues your submission point by point and concludes that outline planning permission should not be given for the proposal.

7. Objections to the proposal were submitted by Councillor Mrs R Leslie Melville and by adjoining and neighbouring residents. These support the district council's reasons for opposing development on the appeal site but several of them also raise the issue of land ownership on the east side of the site.

8. The conclusions which I have reached in relation to your client's appeal are based upon my consideration of the written submissions of the parties and of the site and surrounding area as seen at the time of my accompanied site inspection. As the site lies near the centre of the town, within a residential area, there are no development plan implications in the proposal. Nevertheless, there are other constraints requiring consideration. For example, there is no doubt that it is a restricted site, that it lies within the curtilage of a listed building, and that because it is land-locked on three sides, its only access requires the breaching of a beautiful stone wall.

9. In regard to the first of these, the district council has produced Advice Note 14 entitled "Single Plot Development". This document sets out guidance on a number of considerations such as plot size, coverage, private amenity space, and distance between buildings. The proposed site is well over the minimum size required by the guidelines and it seems to me that the subdivision of the site layout also complies in its proportional distribution of the ground relating to the existing houses. With a high wall on Pearse Street and dense planting to the north, I find that the provision of private amenity space would also present no difficulties. While plot cover and distance between buildings are matters which will require consideration at full planning permission stage, it is necessary for me to ensure that compliance with these issues is possible; in this regard, I am in no doubt that a number of permutations could meet the council's advice on these matters as well.

10. The constraints created by the listed building give me greater cause for concern. The dense planting screen at the north end of the site is bounded on its north side by a further ornamental border with further, lower shrub planting. While this may not be the size of garden ground originally intended for the villa when it was constructed, I place considerable weight on the fact that the integrity of this house has already been affected in a number of ways, such as the house itself already being reduced to flats, that a bungalow has been erected between it and its street frontage, that its grounds have been sub-divided and also that they generally show signs of decay and lack of attention. At the same time, the main approach to the house, between stone pillars and up the length of the driveway remains intact, as does the immediate garden around the house itself. In my opinion therefore, this garden area now appears as adequate amenity space around the listed building, given present circumstances. In any case, the line of mature shrubs to the north and the sloping nature of the ground will reduce the impact of the house, provided it is no more than single storey in height, as indicated on the submitted sketches.

11. I have noted the council's position that the access from Pearse Street should not form part of the submission, but as the application is in outline only, I consider that this is an appropriate matter to be reserved for future submission, provided any onerous implications are dealt with at this stage.

12. In this regard, I consider it to be regrettable that the stone boundary wall on Pearse Street has to be breached but do not consider this, by itself, to be sufficient reason to refuse planning permission. With due care over design, detailing, the use of matching materials, construction and re-instatement of the existing stonework, I can see no reason why an attractive entrance should not be created to the site without affecting the overall appearance of the wall. At the least it would appear superior to that constructed to accommodate the garage to the south of the site. In any case it seems to me that those presently refusing access over the strip between the existing driveway and the east boundary of the site and who at the

same time have objected to any breach of the wall, already have this matter in their own hands.

13. There is no reason why the existing trees and shrubs should be at issue either. I noted that the two mature trees at most risk were both outwith the boundaries of the site, although their canopies projected over the area in question and their roots are therefore likely to spread equally far under the site. The willow to the north is less likely to be affected than the oak to the east, and the latter is the more mature specimen; at least 6m should therefore be left from the trunk of this tree to avoid affecting its roots, while 5m would be sufficient to preserve the willow. I accept that this may also have implications in the consideration of any alternative access and great care would require to be taken in aligning any driveway in order to avoid root damage.
14. Of the other issues which are material to the appeal, I do not consider that the council's suggestion that the approval of your client's proposals necessarily implies that other plot sub-divisions in the area will follow. Each will require to be assessed on its own merits, and I do not expect that many will have the same considerations as those involved in this appeal. The width of the original feu is also notable, particularly in relation to density calculations, as it means that the insertion of a house on this site will not raise the overall density level to a proportion that would be incompatible with any of the surrounding areas. I have also taken into account all the other matters raised, but find that they do not outweigh the considerations which have led me to my conclusions.
15. Accordingly, in exercise of the authority delegated to me, I hereby sustain your client's appeal and grant outline planning permission for the erection of a house on the appeal site, subject to the following conditions:-
- [1] Approval of the siting, design and external appearance of the buildings, the means of access thereto, the details of the method of delineating the boundaries of the feu and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained from the planning authority prior to the commencement of any work on the site;
 - [2] Application for approval of the reserved matters listed in condition [1] above shall be made to the planning authority before the end of three years from the date of this permission;
 - [3] No building on the site shall exceed one storey in height;
 - [4] No part of the proposed building, garage, outhouse, wall, driveway or other works requiring excavation shall be closer than 5m to the trunk of the willow tree immediately to the north of the site or closer than 6m to the trunk of the oak tree immediately to the east of the site;
 - [5] For the purposes of this development, for which permission is granted, no existing trees or shrubs shall be removed or otherwise interfered with by, or at the instance of the developer, without the prior consent in writing of the planning authority; and

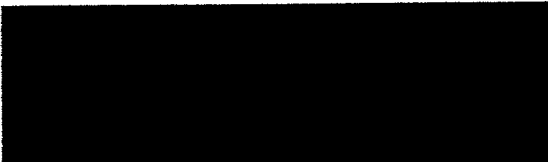
- [6] If access is to be taken direct off Pearse Street, prior to the commencement of any work on site which would affect the existing boundary wall on Pearse Street, details of the proposed gateway, gate and pavement crossing to a scale of not less than 1:20 together with a specification of their dimensions and the materials from which they are to be constructed, shall be submitted to and approved in writing by the planning authority, and, following receipt of such approval but before the dwellinghouse hereby approved is occupied, the gateway, gate and pavement crossing shall be constructed in accordance with the drawing approved by the council.

Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused, or granted conditionally, or if the authority fails to give notice of its decision within the prescribed period.

16. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within six weeks from the date hereof, conferred by sections 231 and 233 of the Town and Country Planning (Scotland) Act 1972; on any such application, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act, or of the Tribunals and Inquiries Act 1992, or of any orders, regulations or rules made under these Acts.

17. A copy of this letter has been sent to the Angus District Council and to Cllr Mrs Leslie Melville. The other objectors have been notified of the decision.

Yours faithfully



G M M THOMSON
Reporter

Report No 226/06

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

2 FEBRUARY 2006

SUBJECT: PLANNING APPEAL DECISION
6 AIRLIE STREET, BRECHIN

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

Abstract: This report presents the findings of the Reporter appointed by the Scottish Ministers to determine the appeal against the refusal of Angus Council to grant consent for the erection of a dwellinghouse and Partial Demolition of a wall to form a new access at 6 Airlie Street, Brechin. The appeal was dismissed.

1 RECOMMENDATION

It is recommended that the Committee notes the outcome of the above appeal.

2 INTRODUCTION

2.1 The Development Control Committee at the meeting on 11 August 2005 refused planning permission and listed building consent (05/00547/FUL and 05/00576/LBC) for the erection of a dwellinghouse and partial demolition of a wall to form a new access at 6 Airlie Street, Brechin.

2.2 The applicant, M. Wilkie appealed against the refusal and the Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

3.1 Section 64(1) of the LBCAA requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. In addition, Sections 14(2) and 59(1) require, respectively, that in considering whether to grant listed building consent for any works and planning permission for a development which affects a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or reasons referred to Development Plan policies. The Reporter's conclusions, in paragraph 10, referred to a "dense planting screen at the north end of the site ... bounded on its north side by a further ornamental border with further, lower, shrub planting". In paragraph 13 he referred in particular to two mature trees with boles outwith the site but canopies overhanging it, including a willow to the north. The grant of planning permission was subject to retention of the two trees.

3.2 Accordingly, on the basis of the written submissions and the site inspection, I consider that the determining issues in these appeals are:-

- whether the proposal would have an adverse effect on the building, its features or its setting; and if
- whether the reasons put forward in support of the appeal justify the grant of listed building consent; and

- whether the development proposed in the application for planning permission conforms to the relevant provisions of the Development Plan; and if not
- whether an exception to the relevant provisions of the plan is justified by other material considerations.

3.3 However, it would be useful to consider first of all what is obviously an important material consideration, which may have a bearing on several of these issues: the previous planning permission granted on appeal. At over ten years old, this is of an age by which relevant factors are likely to have changed even if the site has not. However, it is evident that the sites of 1995 and 2006 are significantly different in dimensions both north-south and east-west. The space in front of the listed building has been reduced by about three metres and the space between the site and the driveway which affords oblique views to the main elevation of the listed building by about five metres. These changes would have a long-term effect on the spaciousness of the immediate curtilage of the listed building, once boundary features giving privacy to the new building were established. The proposed house has been moved some 2.5 metres nearer to the listed building, and is probably considerably larger than that indicated previously, since the present layout shows the house occupying a very considerable proportion of the larger plot.

3.4 At the same time, removal of what appears from the previous appeal decision to have been a substantial body of vegetation dividing the private areas belonging to Nos. 2 and 6 has extended the 'visual curtilage' of the appeal building right down to the boundary with the bungalow; in this assessment I have disregarded what looks like only a temporary fence, and I consider it immaterial whether the two large trees had to be removed for safety reasons, though I have no reason to doubt that this was the case. Further differences, inevitably important in terms of Section 25 of the main Act, are that Development Plan policies did not figure in that case and that the Local Plan policies now relied upon by the Council post-date the previous appeal decision. Taking all these matters together, I have to conclude that the earlier decision can only have a limited influence on the present appeal, and it does not at all establish some irrevocable 'principle of development'.

3.5 I turn then to the first bullet-point issue. Given the current setting for the listed building and its original character as a villa in substantial grounds, I consider that the proposed further plot sub-division would leave the setting unsatisfactorily truncated, as displayed particularly by the awkwardly shaped and obviously residual patch of grass between the proposed plot boundary (nearer to the listed building than in 1995) and the gravel forecourt to the listed building. The new house, of complex shape and relatively large size for an insertion into a sub-divided villa plot, would despite the presence of the bungalow and high boundary walls further restrict views to the upper parts of the listed building from the public streets, and any feature giving reasonable privacy on the new plot's eastern boundary would restrict views from the driveway. Besides further restricting views to the listed building, the proposed house, with quite intricate and visually assertive rooflines, would be very prominent at relatively close range in views from the listed building, also contrary to advice in the Memorandum. The breach in the boundary wall would be harmful to its visual integrity as a continuous boundary to the original plot, particularly since the remaining distance between it and the existing breach for the garage would be so slight that both would be seen together as a single, significant breach. Moreover, there could be no guarantee that the gates would not be left open for convenience, emphasising the breach in continuity. I conclude that there would be harm to the setting of the main listed building and to the integrity of the boundary wall as a listed feature.

- 3.6 On the second bullet-point issue, I am aware that in 1995 a proposed breach in the wall was found not to be a reason to refuse outline planning permission. However, there was in that letter no suggestion of a specific location for the breach; there appears to have been a possibility that use of the existing driveway would become available through a change of mind on the part of its owner, avoiding the need to breach the wall, but that is clearly not in prospect now; and that application was not one for listed building consent in which impact on the listed building must be directly addressed. Given my findings on the previous issue I do not consider that the harm caused by further breaching the wall can be disregarded to the extent of granting listed building consent.
- 3.7 On the third bullet-point issue, I am not persuaded that the proposed house would reduce levels of ordinary residential amenity for neighbours to below what ought to be expected in a prime residential area of a handsome small town. However, this would only be achieved by resorting to a windowless south elevation which would be greatly out of character with traditional styles of good quality housing and would add to the 'squeezed-in' impression that the house would give. Drawing together matters relevant to assessment under the Development Plan policies, I therefore do not find a significant loss of residential amenity, insofar as Policy ENV 5 refers to that. However, Policy ENV 31 is clearly failed because of the incompatibility with advice in the Memorandum. Under Policy ENV 43 I find failure because of harm to the setting of the listed building in terms of scale and siting, and because of the position in front of an important elevation and the breach of a boundary wall to provide access. The latter is a point under which, without any requirement for subjective assessment, the proposal would be bound to fail the first test of Section 25. Although the site is within a town, failure under policies ENV 31 and ENV 43, reinforced by harm to the amenity and character of the site's surroundings, also means failure under Policy ENV 5.
- 3.8 On the final issue, there is nothing in NPPG 18 or the Memorandum which could support the planning appeal against the above adverse findings. As already noted, the previous appeal decision was in too different circumstances for it to be a strongly favourable consideration. I conclude that any favourable 'other material considerations' do not outweigh failure under provisions of the Development Plan.
- 3.9 I have taken account of all the other matters raised but find none that outweigh the considerations on which my decisions are based.
- 3.10 In exercise of the powers delegated to me I therefore dismiss your client's appeals and refuse to grant planning permission for the development and listed building consent for the works proposed in the joint application (Angus Council Reference 05/00547/FUL) validated on 8 April 2005.
- 3.11 These decisions are final, subject to the right of any aggrieved person to apply to the Court of Session within six weeks of the date of this letter, as conferred by Sections 57 and 58 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Sections 37 and 239 of the Town & Country Planning (Scotland) Act 1997; on any such application the Court may quash the decisions if satisfied that these are not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications.

5 CONSULTATION

- 5.1 The Chief Executive, Director of Law & Administration and Director of Finance have been consulted in the preparation of this report.

6 HUMAN RIGHTS IMPLICATIONS

- 6.1 There are no human rights implications.

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.

- AA/IM/KW
23 January 2006

Alex Anderson
Director of Planning and Transport

Policy ER16 : Development Affecting the Setting of a Listed Building

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.

3.35 Listed buildings represent the very best examples both locally and nationally of particular building types and there is a strong presumption against demolition in whole or in part. Where proposals for demolition are put forward considerable supporting evidence will be required as part of any application for Listed Building Consent.

Policy ER17 : Demolition of Listed Buildings

There will be a presumption against the demolition of listed buildings. applications for consent to demolish a listed building will only be considered where:

- (a) it has been demonstrated through a detailed structural and feasibility report that the condition of the building makes it impractical to repair, renovate or adapt it to any reasonably beneficial use for which planning permission would be granted; and
- (b) there is evidence that all reasonable efforts have been made to sustain the existing use or find a viable and acceptable new use or uses for the building including marketing of the building nationally for at least 6 months; and
- (c) detailed planning permission for the reuse of the site, including any replacement building or other structure has been granted.

Submission of the necessary information does not imply that consent for demolition will be automatically granted.

In most cases demolition will only be permitted where work on the erection of a replacement building is to start immediately following the date of demolition or other such period as may be agreed with Angus Council.

Ancient Monuments and Archaeological Sites

3.36 Angus has a rich heritage of archaeological remains ranging from crop marks and field systems through to structures such as standing stones, hill forts, castles and churches. They are evidence of the past development of society and help us to understand and interpret the landscape of today. They are a finite and non-renewable resource to be protected and managed.

Listed Building Consent
A legal requirement which authorises work to listed buildings.

NPPG 5: Planning and Archaeology (1994)

Sets out the role of the planning system in protecting ancient monuments and archaeological sites and landscapes. The Government seeks to encourage the preservation of our heritage of sites and landscapes of archaeological and historic interest. The development plan system provides the policy framework for meeting the need for development along with the need for preserving archaeological resources.

DESIGN QUALITY

1.37 High quality, people-friendly surroundings are important to a successful development. New development should add to or improve the local environment and should consider the potential to use innovative, sustainable and energy efficient solutions. A well-designed development is of benefit to the wider community and also provides opportunities to:

- create a sense of place which recognises local distinctiveness and fits in to the local area;
- create high quality development which adds to or improves the local environment and is flexible and adaptable to changing lifestyles;
- create developments which benefit local biodiversity;
- create energy efficient developments that make good use of land and finite resources.

1.38 Design is a material consideration in determining planning applications. In all development proposals consideration should be given to the distinctive features and character of the local area. This includes taking account of existing patterns of development, building forms and materials, existing features such as hedgerows, trees, treelines and walls and distinctive landscapes and skylines.

1.39 The preparation of a design statement to be submitted alongside a planning application is encouraged, particularly for major developments or those affecting listed buildings or conservation areas. Early contact with Planning and Transport is recommended so that the requirement for a design statement can be determined.

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- **site location and how the development fits with the local landscape character and pattern of development;**
- **proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;**
- **use of materials, textures and colours that are sensitive to the surrounding area; and**
- **the incorporation of key views into and out of the development.**

Innovative and experimental designs will be encouraged in appropriate locations.

Designing Places - A policy statement for Scotland - Scottish Executive 2001

This is the first policy statement on designing places in Scotland and marks the Scottish Executive's determination to raise standards of urban and rural development. Good design is an integral part of a confident, competitive and compassionate Scotland.

Good design is a practical means of achieving a wide range of social, economic and environmental goals, making places that will be successful and sustainable.

PAN 68 Design Statements

Design Statements should explain the design principles on which the development is based and illustrate the design solution.

The PAN explains what a design statement is, why it is a useful tool, when it is required and how it should be prepared and presented.

The aim is to see design statements used more effectively in the planning process and to create places of lasting quality.

Gypsy/Traveller Sites

2.38 Communities Scotland, Angus Council, Dundee City Council and Perth and Kinross Council jointly commissioned a study – An Assessment of the Housing Needs and Aspirations of Gypsies/Travellers in Tayside (2003). The report found that some sites which were originally temporary have become permanent, and some private sites are no longer available to Gypsies/Travellers and so there is a need to provide more transit spaces. The Angus Local Housing Strategy seeks to address the accommodation needs of Gypsies and Travellers through direct liaison with these groups, the provision of additional spaces where necessary and access to housing. There are existing local authority sites at Tayock, Montrose, and Balmuir, Tealing as well as a privately run site at Maryton, Kirriemuir.

SPP3 : Planning for Housing (2003) states that planning authorities should continue to play a role through development plans, by identifying suitable locations for Gypsies/Traveller's sites where need is demonstrated, and setting out policies for dealing with applications for small privately owned sites.

Policy SC13 : Sites for Gypsies/Travellers

Angus Council will support existing sites and consider the development of new sites for Gypsies/Travellers where they satisfy an identified local demand and:

- are compatible with surrounding land uses;
- provide a good residential environment for the people living there, including the provision of public utilities for each pitch or in amenity blocks as appropriate; and
- are well located for access to the local road network.

Villa Property

2.39 In some of the Angus burghs there are areas of large, stone built houses set in mature garden grounds, such as Lour Road/Hillside Road, Forfar; Brechin Road, Kirriemuir; and Park Road, Brechin. These properties often have extensive stone boundary walls which contribute to their character. The gardens of some of these properties would be large enough to accommodate new houses, which would substantially alter the amenity and character of the area. In order to protect the character and appearance of villa property areas, proposals will be considered under the following policy. This policy does not apply outwith development boundaries.

Policy SC14 : Villa Property

Development proposals for new residential development within the garden ground of stone-built villa properties within development boundaries will only be acceptable where:

- the development (including roads and driveways) does not damage the character and appearance of the existing property and/or the surrounding area;
- the proposal respects the density, scale, form, siting, orientation and materials of existing buildings;
- development does not result in the unacceptable loss of important trees;
- car parking and garaging are unobtrusively sited; and
- the proposal complies with other relevant policies of this Plan.

Policy S5 : Safeguard Areas

Planning permission for development within the consultation zones of notifiable installations, pipelines or hazards will only be granted where the proposal accords with the strategy and policies of this Local Plan and there is no objection by the Health & Safety Executive, Civil Aviation Authority or other relevant statutory agency.

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 of the 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.

(See page 15 for Schedule 1: Development Principles)

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 flattened 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) 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.

Towns, Villages and Other Settlements

2.11 The design and layout of all new housing is required to produce a viable and attractive development which relates well to the surrounding area, whether it is an allocated site, an unexpected windfall site or a small site within an existing settlement. Policy S6 : Development Guidelines seeks to ensure that relevant developments take account of a range of factors and make a positive contribution to the local environment. Housing proposals will be considered against the relevant guidelines. Angus Council's Advice Notes 6 – Backland Housing Development and 14 – Small Housing Sites provide detailed guidance relevant to small housing sites within development boundaries.

2.12 Allocations of land for residential development are made in the Settlement Statements in Part 4 of this Local Plan. In addition to allocated sites and land with planning permission, there may be other currently unidentified sites which may be suitable for residential development. The Plan provides scope for such sites to come forward, within development boundaries, where development is in accordance with the principles of the Local Plan.

Policy SC2 : Small Sites

Proposals for residential development on small sites of less than 5 dwellings within development boundaries should provide a satisfactory residential environment taking account of the following:-

- **compatibility with established and proposed land uses in the surrounding area;**
- **plot sizes compatible with those in the area;**
- **provision of at least 100m² private garden ground ; and**
- **maintenance of residential amenity and privacy of adjoining housing.**

Proposals will also be required to take account of the provisions of Policy S6 : Development Principles.

Policy SC3 : Windfall Sites

Angus Council will support proposals for residential development of 5 or more dwellings on windfall sites within development boundaries in addition to the identified supply where they:

- **will make a significant contribution towards regeneration and renewal;**
- **are compatible with established and proposed land uses in the surrounding area;**
- **include affordable housing in accordance with Policy SC9; and**
- **take account of the provisions of Policy S6 : Development Principles.**

***Development Boundaries:** Generally provides 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.*

***Windfall Sites:** These are sites with potential to accommodate 5 or more dwellings but which are not allocated or otherwise identified in the Local Plan or the Housing Land Audit.*

2.8 Figure 2.1, page 22 shows the housing market areas and includes a summary of the housing land supply position at 2004 for each. The Dundee and Angus Structure Plan allowances for each area over the 2001 – 2011 and 2011 – 2016 periods are identified. The level of new housing which this Local Plan needs to plan for, taking account of completions between 2001 and 2004 and the number of sites with planning permission is also shown. Sites are allocated in the Settlement Statements in Part 4 of the Plan. Where sites allocated in the Plan are phased to extend beyond 2011 they will contribute towards meeting the indicative allowances for the 2011 – 2016 period. Where appropriate, specific proposals refer to this in order to guide the phasing of future development and investment planning.

Housing Land Supply

2.9 The Local Plan allocates housing development in the main settlements in each housing market area, giving priority to the reuse and redevelopment of brownfield sites where possible, and where the resulting development is capable of providing an attractive, liveable residential environment. In addition some greenfield sites are allocated to provide an element of choice and to assist in meeting the housing requirements of the Dundee and Angus Structure Plan. These allocations augment the existing supply of sites that already have planning permission. The continuing effectiveness and progress of the housing land supply is monitored through the annual Dundee and Angus Housing Land Audit.

2.10 The allocations of housing land are detailed in the Settlement Statements in Part 4 of the Local Plan. **It should be noted that the figures attributed to each allocation are indicative only and may change subject to the achievement of a satisfactory residential environment, which has regard to the character and appearance of the surrounding area.** Appendix 2 (page 307) provides a summary of all housing sites, which together contribute towards the allowances of the Dundee and Angus Structure Plan.

Policy SC1 : Housing Land Supply

Adequate land has been allocated in the Local Plan to meet the allowances of the Dundee and Angus Structure Plan up to 2011 as illustrated in Table 2.1. Land identified for residential development will be safeguarded from alternative uses, and its effectiveness will be monitored through the annual audit of housing land. Where sites allocated in the Plan are phased to extend beyond 2011 they will contribute towards meeting the indicative allowances for the 2011 – 2016 period.

- Proposals for major development on greenfield sites elsewhere in the Dundee and South Angus housing market area will not be permitted where this would seriously prejudice implementation of the Dundee Western Gateway development. In the Monifieth, Carnoustie and Sidlaw area, additions to the effective housing land supply will be focussed on the main settlements of Monifieth and Carnoustie and contribute to a range and choice of sites throughout the wider housing market area.

Dundee and Angus Structure Plan

Housing Policy 4 : Angus Housing Market Areas – Local Plans will allocate land to meet the allowances detailed in Schedule 1. A range and choice of sites should be provided in each housing market area and priority given to the reuse of previously developed land. The majority of the additional allowances for each market area should be directed to Arbroath, Forfar, Montrose and Brechin respectively.

Brownfield Sites:

Land which has previously been developed. The term may encompass vacant or derelict land; infill sites; land occupied by redundant or unused buildings; and developed land within the settlement boundary where further intensification of use is considered acceptable.

Greenfield Sites:

Land which has never previously been developed, or fully-restored formerly derelict land which has been brought back into active or beneficial use for agriculture, forestry, environmental purposes or outdoor recreation. (SPP3 Planning for Housing, February 2003).

Dundee and Angus Housing Land Audit: prepared annually, in consultation with Communities Scotland and Homes for Scotland.

Existing Sites: Sites with planning permission or which are under construction. Shown in the Settlement Statements and listed in Appendix 2.

Effective Housing Land: Land free or expected to be free of constraints in the five year period under consideration and therefore available for the construction of houses.

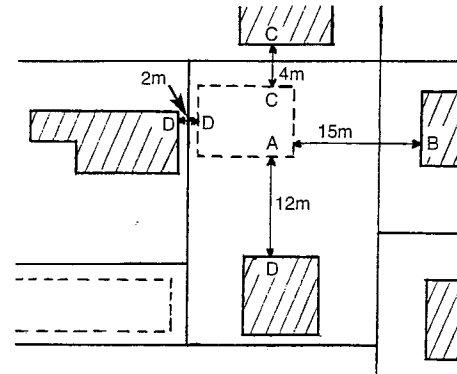
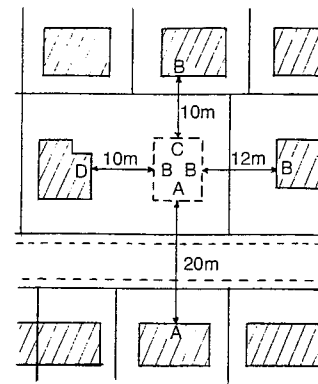
Table 2.1 : Housing Land Allowances 2001 – 2011 (on sites of 5 or more houses)

	a	b	c	d	e	f	g	h	i	
Housing Market Areas	Dundee and Angus Structure Plan Allowance 2001-2011		Completions June 2001 – 2004 ¹	Existing Sites ¹	Remaining Requirement a-(c+d)	Angus Local Plan Review Allocated Sites 2004 - 2011 ²	Plan Provision d+f	Affordable housing potential ³	% Brownfield of Plan Provision (column g)	% Greenfield of Plan Provision (column g)
Arbroath HMA	850	410	325	207	318	460	667	86	33.7%	66.3%
Arbroath Landward			267	125		382	507	76	36.5%	63.5%
			58	82		78	160	10	24.5%	75.5%
Brechin/Montrose HMA	835	400	224	291	320	384	675	80	36.3%	63.7%
Brechin			1	119		120	239	25	19.2%	80.8%
Montrose (including Hillside) Landward			200	121		258	379	55	47.2%	52.8%
			23	51		6	57	0	35.1%	64.9%
Forfar, Kirriemuir and the Angus Glens HMA	1085	525	223	213	649	654	867	94	22.4%	77.6%
Forfar			144	118		440	558	62	31.2%	68.8%
Kirriemuir Landward			46	47		130	177	18	4.5%	95.5%
			33	48		84	132	14	9.1%	90.9%
South Angus HMA	1045	350	401	552	92	393	945	70	28.6%	71.4%
Carnoustie			45	144		288	432	52	37.4%	62.6%
Monifieth Landward			153	29		25	54	10	48.1%	51.9%
			203	379		80	459	8	20.5%	79.5%
ANGUS Totals	3815	1685	1173	1263	1379	1891	3154	330	24.9%	75.1%

¹ Dundee and Angus Housing Land Audit 2004

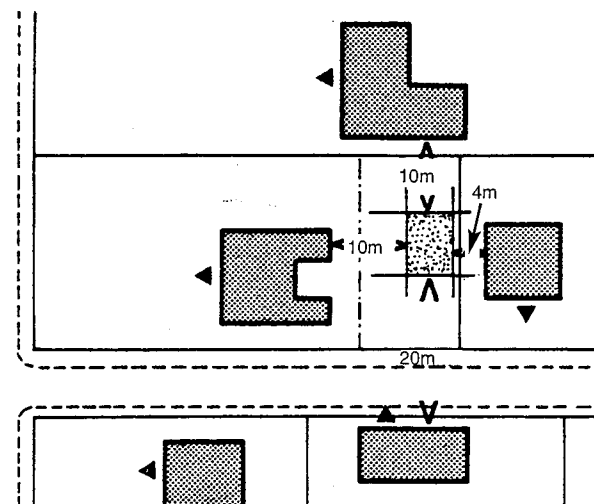
² Including sites previously allocated in the first Angus Local Plan and reallocated in this Local Plan

³ Refer to Affordable Housing section, page 31 below, and Policy SC9 : Affordable Housing



Note: Where the relevant windows are at an angle to each other, the distances may be reduced commensurately. As a guideline, the distance may be halved where the centre point of the two windows are at 45° to each other.

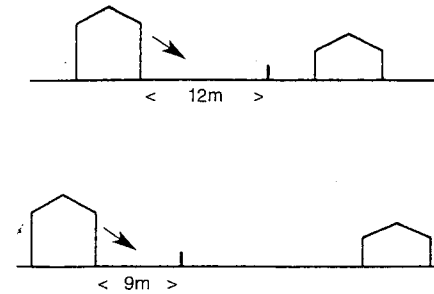
Conditions will often be imposed upon outline planning applications to ensure that these standards are met. This will often define the site area available within which the house must be located and in rare instances it may prove too small for the desired house style or, indeed, any style. If the applicant cannot meet the conditions then obviously the proposal is an impractical one.



Plot of 400 s.m. but area available for dwelling once distance standards are met is too small for a bungalow. May be large enough for a two storey house but this may be excluded by a planning condition.

Screening: Most of the above distances can, if desired, be further alleviated on the part of the affected property, by the erection of screening and in certain circumstances this may be specified by the Planning authority. Even with the erection of screen fences, distances should not be so

reduced as to create an overly-cramped environment. Of course, screening cannot be effective where a second floor is concerned and this is the cause of much discontent amongst existing proprietors affected by such proposals. Accordingly, where a second and overlooking storey is involved, the distance between the main windows of the proposed house and the mutual boundary should be at least 12 metres. In higher density areas or where the adjacent rear garden is particularly generous this could be relaxed to a minimum of nine metres.



ADDITIONAL NOTES

It is the intention of the District Council to implement this advice in a FLEXIBLE fashion. This, however, is likely to result in demands in excess of the minimum standards being more common than their relaxation.

Although intended specifically for single new house developments, the standards are suitable for adoption on a wider basis, for instances, a small infill development or even the larger estate layouts, the Council may well take this Advice Note into account when deliberating on such applications.

This Advice Note does not apply to sites defined as "backland", i.e. sites without a road frontage, for which applicants should refer to Advice Note 6 - Backland Housing Development.

Angus Council



ADVICE NOTE 14

SINGLE PLOT RESIDENTIAL DEVELOPMENT

For further information and advice contact:

Planning & Transport
 Angus Council,
 St. James House,
 St. James Road,
 FORFAR. DD8 2ZP
 Telephone (01307) 461460

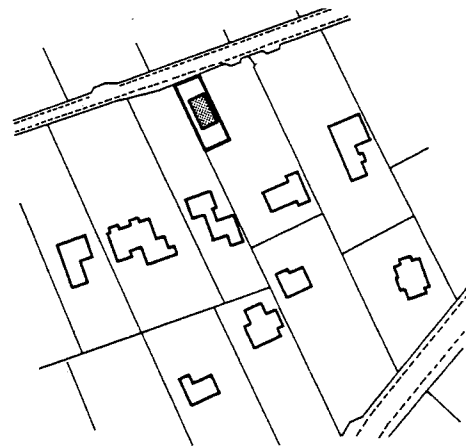
Director of Planning & Transport
 Angus Council,
 St. James House,
 St. James Road,
 FORFAR.

INTRODUCTION

The Council has detected an increasing trend for planning applications to be made for the erection of single houses in private gardens and other small areas of available ground. The Council acknowledges that some households, particularly the elderly, find it difficult to maintain large gardens, whilst others wish to realise capital from an obvious asset. However, approaches are now being made for areas of ground totally inappropriate for this purpose necessitating the production of the Advice Note for the guidance of potential applicants.

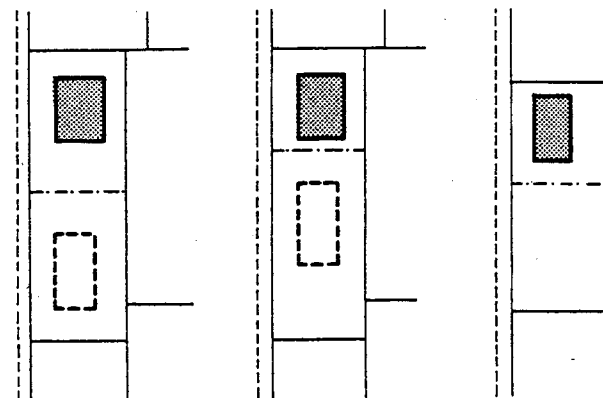
PLOT SIZE

The plot area of a proposal must bear some affinity with the surrounding plots, the Council will be reluctant to permit developments **THAT DO NOT RESPECT THE CHARACTER OF THE AREA**, for instances the insertion of a small house plot in a medium density area, if that development is likely to look out of place or "squeezed in".



As a general guide, a normal **MINIMUM** plot area of 400 **SQUARE METRES** is suggested. In areas of especially high density and where small plots are a characteristic, a lower **MINIMUM** of 350 **SQUARE METRES** may be acceptable, dependant upon any unduly adverse effect that the proposal may have upon neighbours. Conversely, in low density areas, a minimum considerably in excess of 400 square metres will be required.

This minimum plot area requirements will not only apply to the proposal but, where applicable, **TO THE EXISTING HOUSE AND ITS CURTILAGE ALSO.**



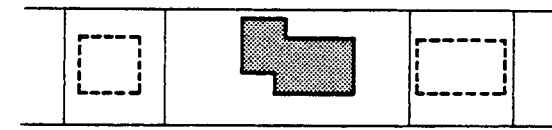
Total Area = 820 s.m. Acceptable Sub-Division
 Total Area = 820 s.m. Unacceptable Sub-Division
 Total Area = 750 s.m. Incapable of Meeting Standard

Unique situations may also demand a variation of the "rules", for instance in the case of a well treed site, where, in order to retain as many trees as possible, larger plots will be demanded.

PLOT COVERAGE

The character or spaciousness of a development is not solely determined by the size of the plot but also by the proportion of the plot that is covered by the building. Specifying a minimum plot size is of little relevance if the proposed house then fully occupies the curtilage, providing minimal living space around the dwelling.

In order to leave sufficient open space around a new house for outdoor activity, for the setting of the house and possible future extensions, the proposed house should not cover more than 30% of the plot. Again where it would be more in keeping with the character of a high density neighbourhood, this might be increased to 35%.



Plot Size = 420 s.m. House = 118 s.m. Coverage 28% Acceptable
 Plot Size = 420 s.m. House 180 s.m. Coverage = 43% Not Acceptable

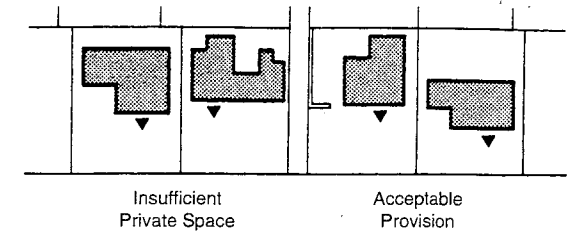
By the application of this standard, proposed developments on small plot areas in practical terms may be restricted to one and a half or two storeys, as these have a lesser ground floor area than bungalows. If the Council also feels it correct and proper to impose a bungalow only condition, then the proposed development of the site may not be feasible.

PRIVATE AMENITY SPACE

Applying the above standard to a new house development should ensure that at least 65% of the plot remains open but all of this could be taken up by front garden, car space, drive etc., leaving none for the long list of private activities that gardens are required to cater for, such as sitting in the sun, playing with the children, eating out-of-doors on a nice day, drying clothes or even parking the kids bicycles.

To meet this requirement for modern day living, the Council will require a **MINIMUM** area of 100 **SQUARE METRES** to be allocated for **PRIVATE** amenity space. Where a good case can be made out, e.g. in character with the surrounding area this may be reduced to 70 **SQUARE METRES** or in the difficult case of a corner plot with two road frontages, a reduction to 50 **SQUARE METRES** might be acceptable. These standards will require to be met where appropriate, by the existing house also.

Normally to qualify as private amenity space, the area will be out of public view, i.e. a **BACK** garden or well screened area at the side. It must also be a usable area, ten small leftover corners or strips of 10 square metres each will not be acceptable.



DISTANCE BETWEEN BUILDINGS

Perhaps the greatest bone of contention with objectors to new house proposals, concerns the distance between the proposed dwelling and their own. It is also valid that the planning authority should aim for reasonable distances even in the case where there are no objections, for instance, where only the applicant's house is affected and, most particularly, where the proposal is in front of an existing house.

In fact the distances regarded by residents as being most critical are where windows are involved, therefore, the following guideline **MINIMUM** distances are based on windows. While these guideline figures should ensure a reasonable degree of amenity and privacy, there will be instances where they may not be acceptable for townscape reasons e.g. out of character with the surrounding area, the presence of trees, etc. and conversely, in higher density, older areas, it may even be possible to reduce some of the distances specified.

Main Living Room Window to:-

- Main Living Room Window - 20 metres
- Other Habitable Room Window - 15 metres
- Non-Habitable Room Window - 12 metres
- Blank Wall - 12 metres

Other Habitable Room Window to:-

- Other Habitable Room Window - 12 metres
- Non-Habitable Room Window - 10 metres
- Blank Wall - 10 metres

Non-Habitable Room Window to:-

- Non-Habitable Room Window - 4 metres
- Blank Wall - 4 metres

Blank Wall to Blank Wall - 2 metres

Definitions: Habitable Room includes Kitchen
 Non-Habitable room includes bathrooms, utility rooms, staircases, halls, landings, stores, workshops, etc.

In the diagrams below, which illustrate the application of most of the above rules, the following notation has been used:-

- A - Main Living Room Window
- B - Other Habitable Room Window
- C - Non-Habitable Room Window
- D - Blank Wall

**Erection of dwelling in garden ground at land between 6 and 6A Airlie Street, Brechin
planning permission in principal refusal ref- 14(00644) PPPL**

Reasons for review

This site has an extended history of planning application, dating back to 1995 when an outline application was approved under appeal. This was followed by a refusal under appeal of a detailed application in 2006.

The recent application was refused with three reasons given:

1. That the application is contrary to policy ER16 of the Angus local Plan Review 2009 as the proposed development would be located in front of an important elevation of a listed building and would have an adverse impact on the setting of that listed building.
2. That the application is contrary to policies S3 and SC14 of the Angus Local Plan Review 2009 as the proposed development would have an adverse impact on the character and appearance of the existing property at 6 Airlie Street and the surrounding area.
3. That the application is contrary to policy S6, policy SC2 and policy S1 of the Angus Local Plan Review 2009 as the access/egress to the site from Airlie Street is substandard and intensification of the use of that access/egress with the public road would be detrimental to road traffic and pedestrian safety.

We would answer these points as follows:

1. The house we intend to build on this site is a small single story building of a much smaller scale than the listed building, to give the appearance of a lodge or gardeners cottage. It is to be at a considerable distance (26.0 metres or thereby) from the front elevation of the listed building and at a lower ground level, which will further reduce the impact. A substantial visual barrier exists between the site and the listed building, consisting of five trees, shrubs, and a substantial 2.0 metre high timber fence, with additional hedge planning to infill between the trees. The visual impact to the listed building will therefore be minimal.
2. The new house will be designed and detailed in a traditional style to compliment the listed building, to maximise privacy of the adjoining buildings, most of the window and door openings will be situated on the east and west elevations. The house will have a natural slate roof, some stonework on the principal elevations and traditionally proportioned window and door openings.

With a plot size of 740.0 S.M. (the minimum required is 400.0 S.M.) and a plot ratio of 11.3% (the maximum permitted is 30%) this proposal maintains the medium density of the surrounding area. The window to window distances for this proposal will be much greater than is required by Angus Council's advice note 14.

3. The existing private access driveway serves the house at 6A Airlie Street, and the bed and breakfast establishment at 6 Airlie Street. No. 2 Pearce Street does not have access via this driveway.

We believe a private driveway can serve up to five houses. We were originally advised by a roads dept. officer at a site meeting that the existing access was perfectly adequate for our proposal, but with the addition of a passing place. This was later overturned when a senior roads dept. officer prepared a written statement for the planning dept.

We consider this entrance to be perfectly safe, especially as Airlie Street has a very low traffic density. It should also be noted that a great number of many similar entrance gates exist along Airlie Street and in other similar streets such as Pearse Street, Argyll Street, North Latch Road, Park Road etc.

The access to Airlie Street is our preferred option, the second option is to form a new gate to Pearse Street, where obtaining the required sight lines may be less problematic.

In conclusion, we do not consider the council's reasons for refusal to be sufficient to justify a refusal.

The impact of the listed building as a substantial villa set in large mature garden grounds has been reduced by its division into flats, and the grounds are now divided into three parts, with different owners.

In 1995 the Scottish Office looked into this proposal in some detail, including the relationship with the listed building, and an approval was given.

We would now ask for this application to be approved to allow us to proceed to the detail design stage.



Memorandum

**Communities
(Roads)**

TO: HEAD OF PLANNING & PLACE

FROM: HEAD OF TECHNICAL & PROPERTY SERVICES

YOUR REF:

OUR REF: GH/AG/SC TD1.3

DATE: 11 DECEMBER 2014

SUBJECT: PLANNING APPLICATION REF. NO. 14/00644/PPPL – PROPOSED HOUSE ON LAND BETWEEN 6 AND 6A AIRLIE STREET, BRECHIN FOR MR E HAGGART

I refer to the above planning application.

The site is located on the north side of Airlie Street, Brechin on land within the garden boundary of other properties.

There are several objections to the proposals which are similar to those regarding previous applications relating to sightlines. I have also noted that the owners at No 6A Airlie Street may be prepared to negotiate with the developer with regard to improvements to the driveway. Nevertheless, the required visibility splays cannot be met at this point.

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I object to the application on the grounds of road safety due to the lack of visibility sightlines at the existing access to Airlie Street.

I trust the above comments are of assistance but should you have any further queries, please contact Adrian Gwynne on extension 3393.

p.p.



Memorandum

Communities
(Roads)

TO: HEAD OF PLANNING & PLACE

FROM: HEAD OF TECHNICAL & PROPERTY SERVICES

YOUR REF:

OUR REF: GH/AG/CM TD1.3

DATE: 31 JANUARY 2015

SUBJECT: **PLANNING APPLICATION REF. NO. 14/00644/PPPL – PROPOSED ERECTION OF A DWELLING HOUSE AT 6 AIRLIE STREET, BRECHIN FOR MR E HAGGART**

Further to the above planning application.

The site has a long and varied planning history dating back to 1995 when an application for a new house was refused by the planning authority but granted on appeal by a Reporter. No indication was given in the application where access to the site would be taken from but it was suggested during consideration of the application that this could be via Pearse Street.

Following the turn of the century a subsequent application was lodged (04/01053/OUT). This application was based on access being taken from the existing driveway located on Airlie Street. The roads service objected to the application on road safety grounds, due to the sub-standard sightlines available at the site access. This is caused by the narrowness of the adjacent footway on Airlie Street. The application was subsequently withdrawn.

The above application was timely followed by dual applications for a new house and listed building consent (05/00547/FUL & 05/00576/LBC) which reverted to the proposed access from Pearse Street. These applications were to include demolition of part of the boundary wall to form an access which was to be built in accordance with the road standards at the time. As such, the roads service did not object to the applications. However, the applications were refused by the Council and then, following an appeal, were dismissed by the appointed Reporter. These applications have no bearing on the consideration of the current application, in terms of traffic safety, as the respective vehicular access points are on different roads and are to different roads design standards.

In terms of traffic safety, the current application mimics the application submitted in 2004 for which the Roads service objected due to the sub-standard sightlines. In order to offset this failing the applicant has submitted an updated site plan dated July 2014, which proposes improvements to the private driveway by virtue of the provision of an internal passing place, 8.0m long by 5.5m wide. This will assist the free flow of traffic on the private driveway and also reduce the likelihood of opposing vehicles reversing out onto the public road, at a location where visibility is poor. This is a welcome improvement.

Accordingly, on the basis of the amended proposals, I consider that the determining issue is whether or not the improvements to the private driveway outweigh the failure to meet the Council's road design standards, in terms of visibility at the junction with the public road.

My responsibility rests with traffic safety on the public road and as such, the proposals for the access fail to meet the Council's road design standards. Albeit, these standards have changed since the application was lodged, resulting in a reduced requirement for visibility sightlines. This also means that the previous planning applications for the site are of less relevance to the consideration of the current application; in traffic safety terms.

The minimum sightlines now required, on both sides of the access, at its junction with the public road (Airlie Street) are; 2.0 metres by 43 metres. The existing footway on the north side of Airlie Street is significantly less than 2.0 metres wide. The breach in the boundary wall at the access is narrow and the boundary wall is high. These factors all contribute to a poor access.

I have taken account of the amended plan and whilst the proposed improvements to the private access are welcome, there remains no proposal to improve the sightlines at the junction with the public road. Therefore, the application would still result in an intensification of use of a sub-standard access.

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I find that, on balance, I must maintain my objection to the proposed development.

I trust the above comments are of assistance but should you have any further queries, please contact Adrian Gwynne extension 3393.

p.p.