

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 26 AUGUST 2014

BOURTREE COTTAGE, 26 MARYWELL, ARBROATH

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 in principle for the erection of a dwellinghouse (re-application), application No 14/00270/PPPL, at Bourtree Cottage, 26 Marywell, Arbroath.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**); and
- (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

APPLICATION NO. 14/00270/PPPL

**APPLICANT: MR STEVE SMART FOR ERECTION OF A DWELLINGHOUSE -
RE-APPLICATION AT BOURTREE COTTAGE, 26 MARYWELL, ARBROATH
DD11 5RH**

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Angus Council

Application Number:	14/00270/PPPL
Description of Development:	Erection of a Dwellinghouse - Re-Application
Site Address:	Bourtree Cottage 26 Marywell Arbroath DD11 5RH
Grid Ref:	365072 : 743921
Applicant Name:	Mr Steve Smart

Report of Handling**Site Description**

The site consists of an area of garden ground to the east of the existing dwelling that has been cleared of all notable features save for a mature tree in the north east corner. The site has the look of a site that has been prepared for development. The south and east boundaries are contiguous with the arable field beyond and are contained by a rabbit proof post and wire fence. The north boundary is contained by a 1.8 m vertical timber fence beyond which lies the garden of 24 Marywell (Sonora Villa) which is a 1.75 storey traditional sandstone villa. The boundary between the site and the parent property is defined by a 1.5 m horizontal hit and miss or ranch style fence. There is a slight east to west slope on the site and the site sits in a slightly more elevated position than the original house.

The majority of the site lies within the Marywell Development Boundary however there is a roughly 2 metre strip to the east and a roughly 1 metre strip to the south that lies out with the defined boundary of the settlement accounting for around 70sqm of the indicated site.

Proposal

The application relates to an in-principle proposal to erect a dwelling in the rear garden area of 26 Marywell near Arbroath. The existing dwelling is known as Bourtree Cottage. The proposal would involve the subdivision of the existing domestic curtilage of Bourtree Cottage into two roughly equal square plots indicated as being 402sqm and 445sqm. A shared access arrangement would be utilised to access the proposed new plot which would be a so-called backland plot. The shared access strip measures around 105sqm and would follow the line of the existing driveway to the side of Bourtree Cottage.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 18 April 2014.

Planning History

Application 13/00726/PPPL for Erection of A Dwellinghouse was Withdrawn on 20 September 2013.

Applicant's Case

The applicant's agent has submitted a reasoned justification in support of the application. The following

points are made:

- o That the site is considered to be a backland site as per Angus Council Advice Note 6 and that the proposal would accord with the provisions of that advice note. The justification contains the applicant's agents assessment of the proposal in terms of Advice Note 6 criteria.
- o That the proposed pattern of development is considered to be consistent with that of Marywell Gardens along with a backland house that was recently approved under ref: 07/00634/FUL in the backland area of 27 Marywell now known as 31 Marywell and the development would not set a precedent for further development of a similar nature.
- o That it would be possible to create two plots of more than 400sqm although the plot size for the new development would reduce to 375sqm should land out with the development boundary be excluded.
- o That the position of the development boundary of Marywell in the Angus Local Plan Review is not reflective of the situation on the ground and the strip of land shown out with the boundary has in reality been taken into gardens.
- o That the proposal is considered to be in accordance with relevant Policies and Advice Notes. The proposal would reduce demand for new houses on greenfield sites and would protect the privacy and space standards of existing residents.
- o That no objection has been received from neighbours that are adjacent to the site.

Consultations

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

Angus Council - Roads - No objection.

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

Representations

3 letters of representation were received.

The main points of concern were as follows:

- Out of Character
- Exacerbate On-Street Parking Problems
- Right of Way Affected

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

TAYplan Strategic Development plan

There are no relevant policies.

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.

Policy S1 presumes in favour of development within development boundaries where proposals comply with other relevant local plan policies however in respect of land that is contiguous with but out with development boundaries the policy presumes against development unless there is proven public interest and a social, economic or environmental consideration that confirms an overriding need for the development which cannot be met within the boundary. In this case, is around 70sqm of the site that lies out with but is contiguous with the development boundary. No proven public interest and social, economic or environmental case has been stated that would confirm an overriding need for the development of this land to take place.

The key determining policy is Policy SC2 which refers to small housing sites within development boundaries. The policy states that small housing developments (less than 5 units) within development boundaries should provide a satisfactory residential environment taking account of compatibility with surrounding land uses, compatibility with plot sizes in the area, provision of at least 100sqm of garden ground and maintenance of residential amenity and privacy of adjoining housing. Proposals also need to take account of the relevant provisions of Policy S6. In addition Angus Council Advice Note 6 on backland housing development is also relevant.

In terms of the tests of Policy SC2, there are no land use compatibility issues arising. Marywell is almost entirely residential in nature and the establishment of a further residential unit would raise no land use compatibility issues. Plot size compatibility also needs to be taken into account. Within the village, there are a variety of plot sizes ranging from 250sqm to 1200sqm. The average plot size within the settlement is around 520sqm. Notwithstanding the issue detailed above regarding part of the site lying out with the development boundary, the plot size would be compatible with some plots in the village however relying on plot size alone is over simplistic.

As well as plot size, development character and form of development needs to be taken into account. It is noted that policy S3 identifies development pattern and character as design considerations. In addition, Advice Note 6 states in respect of backland housing that any proposal must be sympathetic to the character of the area and gives the specific example of the pattern of development in a linear village which should be respected. The supporting statement highlights two exceptions to the general rule in Marywell. These are the dwelling approved on a backland plot at 27 Marywell under references 06/00374/OUT and 07/00634/FUL and a courtyard development of seven dwellings erected under the provisions of planning permission ref: 05/01660/FUL.

Both of these developments differ significantly from the proposed development. The backland plot at 27 Marywell is served by a pre-existing access track and stands on a generous plot of around 900sqm in an area where reasonably large backland structures are a common feature. The parent dwelling in that case retains around 1200sqm of a plot. The seven dwelling development approved under 05/01660/FUL took place on a site amounting to around 4000sqm. The development took place on an unkempt site where structural reports had demonstrated that the existing dwelling had limited longevity. The development as an exception to the general rule in the village allowed all dwellings to be served from a single access and made provision for off street parking for dwellings as well as general parking that is available to the general public helping to alleviate long standing frontage parking issues in the village.

In this case, the proposed development would comprise of what is commonly known as tandem development where a standard house plot is divided to form two plots. In the two cases noted by the applicant's agent, it can be seen that there are compelling reasons for allowing for deviations from the traditional pattern, and all planning proposals should always be considered on their own merits. Advice Note 6 clearly states that the granting of planning permission to develop a backland site will not be regarded as setting precedent for subsequent backland proposals in the locality. In stating this, the Advice Note

makes it clear that established exceptions to general rules should not be relied upon as material factors that will allow further exceptions to take place.

In this case the proposal is reasonably contrived. The submitted drawings indicate that two plots measuring 402sqm and 445sqm would be formed. A 402sqm residual plot is attributed to the original dwelling. A shared access is indicated that is basically the normal household access to the original house. Advice Note 6 states that backland plots should be a minimum of 400sqm excluding access strip and that the original dwelling should also retain at least 400sqm. Taking into account the fact that around 70sqm of the proposed new plot would be land that would amount to an expansion of the development boundary without any overriding public or social interest involved in terms of Policy S1 (c) requirements, a plot of 400sqm cannot be formed within the development boundary. In this respect the submitted supporting assessment is flawed in that it relies on land out with the development boundary although the assessment does attribute the situation to an anomaly between the local plan boundary and the Ordnance Survey map.

In addition, the nature of the proposed access strip would be contiguous with the gable of the original dwelling where there is a kitchen window and the turning head of the access would lie adjacent to the rear sun lounge of the original house. Such an arrangement can only be considered to amount to a diminishing of the general standard of amenity for occupants of Bourtree Cottage and due to the constraints of the site; there would be no opportunity to provide a greater stand-off between the access strip and the original house.

The proposed plot size may be comparable with some in the village, in terms of Policy SC2 considerations however it is below average for the settlement notwithstanding its cross boundary nature; and the nature of the proposed site would be at odds with the general character and nature of the linear village. The proposal is therefore contrary to Policy SC2, Policy S3 and Advice Note 6 on this basis.

The garden ground considerations of Policy SC2 could theoretically be met by the proposal even accounting for the area of the site that lies out with the development boundary. The final consideration of Policy SC2 is privacy and residential amenity of adjoining housing. The site would be bound by two residential curtilages. One property is the remaining curtilage of the original house and the other is the south boundary of the garden area of Sonora Villa which is a well-established sandstone villa with a rear garden measuring in excess of 800sqm which lies to the north of the site.

The boundary between the original dwelling and the site would be around 13 metres from the main part of the house. The current boundary arrangement between the two sites is a 1.5m ranch fence. The sun room of the original dwelling would however lie within 4.5 metres of the mutual access and turning head and as previously discussed the relationship between the existing house and the proposed mutual access is less than satisfactory. While it is appreciated that the existing dwelling is in the control of the applicant, this situation cannot be assumed to continue once the development has been undertaken. Marywell is a linear village with a primary route running its entire length. Most of the dwellings in the village are closely related to the main road and their rear garden areas are therefore valuable as amenity spaces away from the road frontage.

Notwithstanding the previously mentioned exceptions to this general rule, any erosion of the established pattern could be viewed as an erosion of the amenity standards within the backland area of not only the original house but also any neighbouring property. The proposal is in principle only at this stage however the erection of a dwelling within 2 metres of the south boundary of the neighbouring private garden and the introduction of backland development is considered to represent a specific erosion of the privacy and amenity standard of that garden. The boundary is screened by a 1.8 metre fence however, as previously mentioned the site takes in the slightly elevated part of the garden area of Bourtree Cottage. Floor levels within the proposed new dwelling are not indicated. It is highly likely however that any north facing window would have a clear view into the rear garden of Sonora Villa and it is beyond any doubt that the proposed new dwelling would introduce a significant presence beyond the south boundary of the neighbouring property that would alter any sense of openness, privacy and amenity that is currently offered there.

The final requirement of Policy SC2 is that proposals take account of the relevant provisions of Policy S6.

As discussed above the proposal is considered to diminish the amenity of the existing house, the neighbouring property and is considered to represent a further erosion of the established development pattern of the village. The proposal therefore fails to meet with the amenity considerations of Schedule 1. There are no roads, access or parking issues arising and landscaping could theoretically be established by condition. Similarly, the development is in the sewered area and does not pose any unusual drainage issues. Conversely the access to the site lies within an area of known pluvial flood risk. This is unlikely however to affect the site under consideration in terms of flood risk to the proposed house which would be on a site that is elevated from the small indicated flood risk area which is likely to be in the form of road surface water. The proposal could technically meet with other Schedule 1 considerations.

The proposal is however contrary to the relevant provisions of the Local Plan, namely Policy S1, Policy S3, Policy S6 and Policy SC2 as well as Advice Note 6. There are no other material considerations that would justify a departure from the Development Plan. Two representations were received against the proposal and the relevant points made have been discussed in the foregoing assessment of the proposal other than the matter of encroachment of a right of way. The historical path around the village that enabled villagers to access the well after which the village is named is not a right of way. While there may possibly be servitude rights over this area, there is no formal right of way in place and as such the encroachment amounts to a civil matter. The application is refused for the reasons given below.

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 part of the development site lies out with the Development Boundary of Marywell. As such the proposal would represent an unplanned expansion of the Marywell Development Boundary and would therefore be contrary to Policy S1 (c) in the Angus Local Plan Review as there is no proven public interest and social, economic or environmental considerations that would confirm an overriding need for such an expansion.
2. That the backland nature of the proposed development would be at odds with the established character and development pattern within Marywell Village which is predominantly that of a linear village of frontage properties with private rear garden areas. In this respect the proposal is contrary to Policy S3 in the Angus Local Plan Review and Angus Council Advice Note 6.
3. That the proposed development would not result in the formation of a satisfactory residential environment within the context of the linear village by virtue of the resulting amenity afforded to the original dwelling known as Bourtree Cottage and the relationship between the site and the private garden ground of Sonora Villa. As such the proposal is contrary to Policy S6 and Policy SC2 in the Angus Local Plan Review as well as Angus Council Advice Note 6.

Notes:

Case Officer: Murray Agnew
Date: 3 June 2014

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries

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

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

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

Policy S6 : Development Principles (Schedule 1)

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

Schedule 1 : Development Principles

Amenity

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

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

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

Roads/Parking/Access

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

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

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

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

Landscaping / Open Space / Biodiversity

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

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

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

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

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

Drainage and Flood Risk

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

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

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

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

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

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

Supporting Information

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

Policy 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 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.

TAYplan Strategic Development Plan

There are no relevant policies.

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.

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365100

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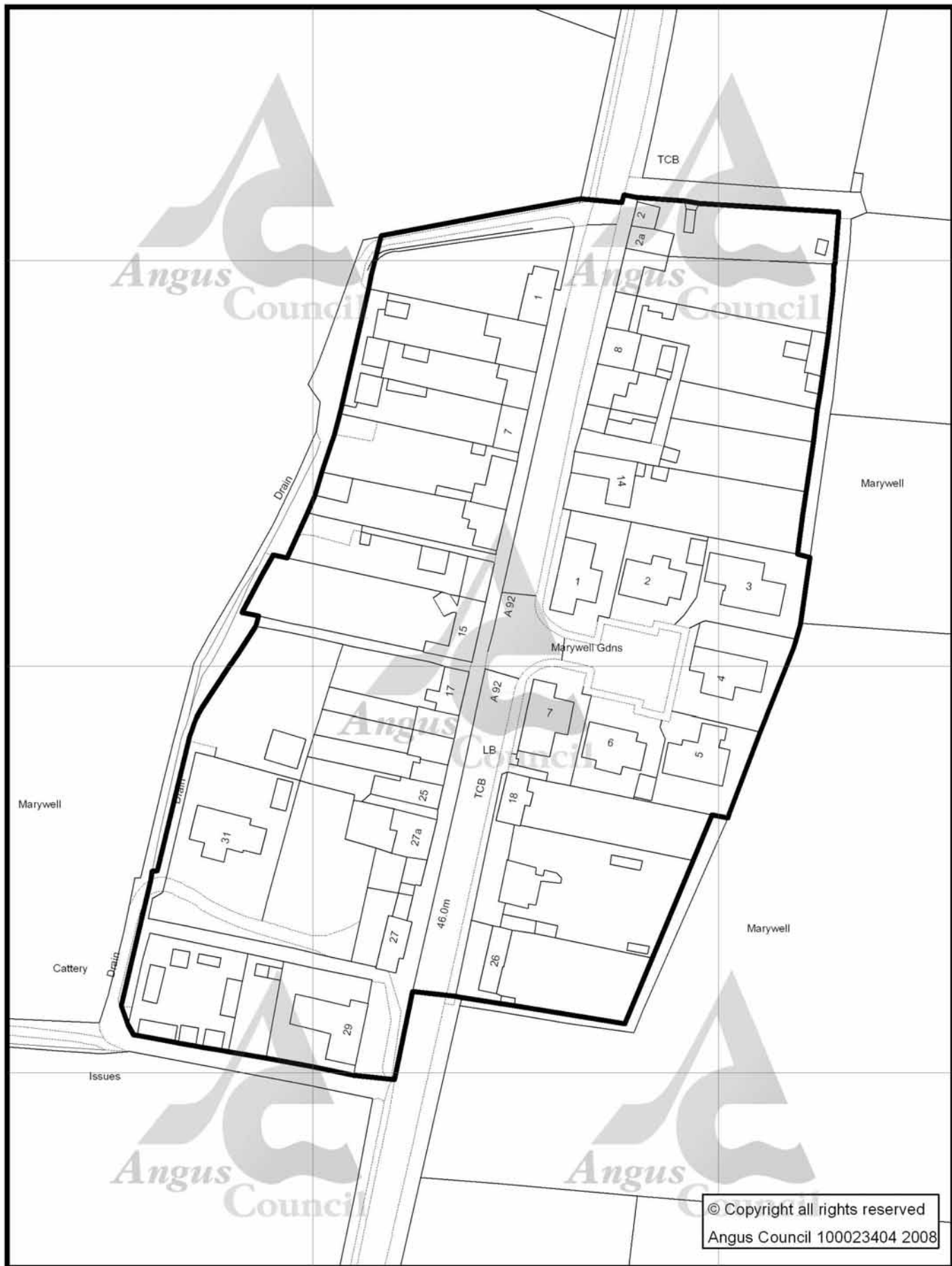
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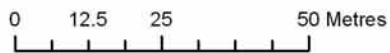
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Marywell
Angus Local Plan Review



Angus Council



ADVICE NOTE 6

**BACKLAND
HOUSING
DEVELOPMENT**

For further information and advice contact:

Planning & Transport
Angus Council
County Buildings
Market Street
Forfar
DD8 3LG

INTRODUCTION

For some time it has been established practice to treat planning applications for residential development on backland sites as generally being undesirable, primarily in the interests of protecting amenity and maintaining the standards of privacy enjoyed by adjoining residents. By the very nature of backland sites, development thereon tends to result in a reduction of the space standards and/or privacy enjoyed by existing residents, increasing housing density and thereby altering the character of the area. Nevertheless, opportunities do exist in areas of low or medium density housing, where backland development could be accommodated without undue visual intrusion and where residential standards of space and privacy could be maintained at an acceptable level.

While the principle of protecting the amenity of existing residents remains a prime concern, it is now considered that a policy which permits a greater degree of flexibility can justifiably be pursued. Such a policy would help to maximise the development potential which exists within settlements and reduce development pressure on greenfield sites. By operating within defined criteria these benefits can be realised without imposing unreasonably on the space standards and privacy of existing residents.

COUNCIL POLICY

Planning applications for the development of single (exceptionally two) houses on a backland site will normally be approved where they meet the following criteria. For the purposes of development control a backland site will be defined broadly as "a small area of land to the rear of existing buildings which at no point, except for land reserved for the purposes of an access, adjoins a public road". Normally a backland site will be located within the curtilage of an existing house and will therefore be confined in area by the limits of the curtilage but, irrespective of the area of the site, the principles of control in respect of protecting the privacy and space standards of existing residents remain the same.

THE PRINCIPLE OF CONTROL

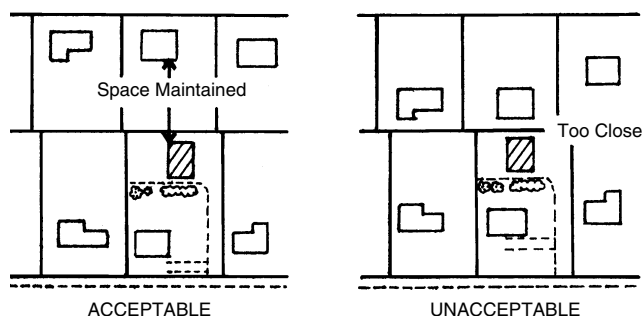
In the majority of backland development situations, adjacent properties will have enjoyed an open aspect knowing that, as a normal highway access would be impossible or unlikely, the aspect will remain more or less intact. In these circumstances, the erection of a house or houses in the previously open garden area can be particularly disconcerting. Accordingly it is right and proper that these residents are allowed to enjoy at least the normal privacy and openness associated with a traditional estate development and arguably the standard should be slightly higher. Criteria 1 to 4 are designed to achieve this.

CRITERIA TO BE MET

1. To attract a planning approval, a backland plot will normally require a minimum area of 400 square metres excluding any access strip. In certain exceptional circumstances, this may be relaxed, e.g., where all surrounding gardens are particularly extensive, although this exemption is only rarely likely to be applicable. If the site lies within an existing house curtilage, the original house must also retain at least 400 square metres.

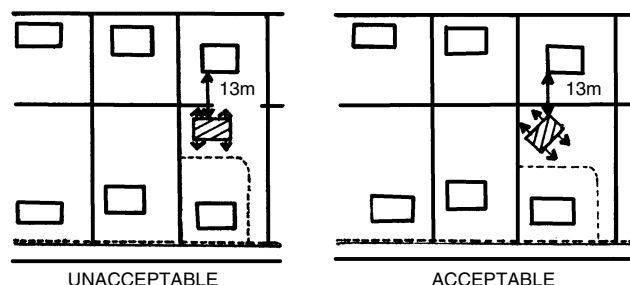
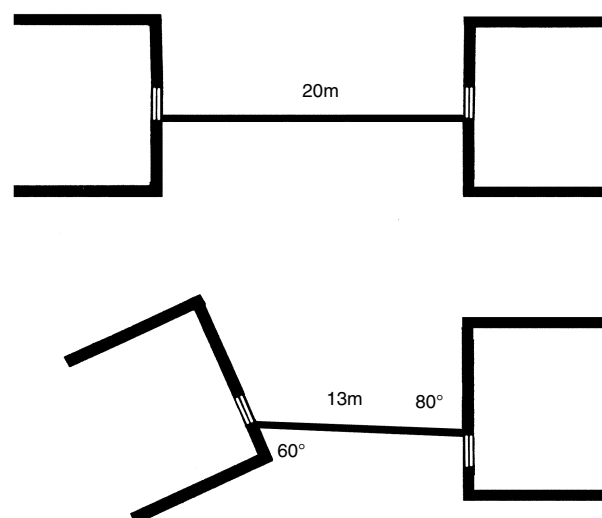
2. Development on backland sites should be sited in such a way as to minimise the loss of privacy, outlook and space for adjoining residents. A reasonable degree of space must be maintained around and between the new house and those existing.

For Example:-



3. Windows of habitable rooms should not be positioned directly opposite or inclined horizontally to those of habitable rooms in existing neighbouring houses unless there is a distance of approximately 20 metres between the windows of both dwellings. Where the respective buildings are inclined at an angle to one another, the distance required between windows will be less.

For Example:-



4. Dwellings of more than one and a half storeys will not normally be permitted on backland sites unless it can be demonstrated by the applicant or his/her agent, that such development can be accommodated with the minimum loss of privacy to adjoining resident. Often consent will be limited to single storey bungalows.

5. A suitably safe access must be provided to the satisfaction of both the roads and planning authorities.

6. Any proposal and ultimately the detailed design must be sympathetic to the character of the area, for example, the pattern of a linear village with only frontage development should be respected. In designated Conservation Areas a high level of sensitivity in design and use of materials will be required.

7. The proposal must not jeopardise the overall planning of an area when better solutions can reasonably be anticipated in the foreseeable future, for example, where there is a local plan proposal for the area.

8. The granting of planning consent to develop a backland site will not be regarded as setting a precedent for subsequent similar applications within the same locality.

DEVELOPMENT CONTROL PRACTICE

As standard practice, the Council will require that outline planning applications for backland development should contain details relating to the siting, aspect and height of the proposed dwelling(s) as well as indicating where an access will be formed.

Development of backland sites can normally only be regarded as detrimental to existing adjacent householders and where genuine and reasonable objections are received from this source, they will be regarded as a major input into the planning application consideration.



Memorandum

**Communities
(Roads)**

TO: HEAD OF PLANNING & PLACE

FROM: HEAD OF TECHNICAL & PROPERTY SERVICES

YOUR REF:

OUR REF: GH/AG/SC TD1.3

DATE: 28 April 2014

SUBJECT: **PLANNING APPLICATION REF. NO. 14/00270/FULL – PROPOSED ERECTION OF NEW DWELLING HOUSE ON GROUND AT REAR OF NO 26 BOURTREE COTTAGE, MARYWELL, FOR MR STEVE SMART**

I refer to the above planning application which was subject to previous application 13/00726/PPPL.

The site is located within the 30mph speed limit on the east side of A92 Arbroath-Montrose Road at Marywell some 3km north of Arbroath.

The council's Road Standards document is relative to the consideration of the application, and the following comments take due cognisance of the guidance contained therein.

The proposed dwelling house is to be in the rear garden ground of Bourtree Cottage resulting in a shared access with Bourtree Cottage.

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 do not object to the application but would recommend that any consent granted shall be subject to the following condition:

1 That, prior to the occupation or use of the dwelling house, turning space shall be provided within the site curtilage to allow vehicles to enter and leave in a forward gear.
Reason: in the interests of road safety.

2 That a minimum of 2 car parking spaces shall be provided within the remaining plot for 26 Marywell (Bourtree Cottage)

Reason : in the interests of road safety

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



3 Marywell Village

RECEIVED

Arbroath

1 - MAY 2014

Angus DD11 5RH

1C | 1CW

24th April 2014

SSC

14/00270/PPL

Bourtree Cottage - Ref No. ~~14/00270/PPL~~

Dear Sir/Madam

With reference to the above application for Planning Permission in Principle at No. 26 Marywell Village, we wish to lodge our objections.

We are very worried that a precedent may be set for other house owners in the village if this application is approved. Many other residents may rightly feel that they would want to cash in on the opportunity to sell off ground for housing development which would result in the character of the village being eroded by all new buildings. Marywell Village has always been a linear village and as stated by Angus Council yourself a few years ago when another property owner wanted to do similar plans, Angus Council agreed that no further development should take place.

Can we also bring to your attention the fact that around both sides of the village at the back there is a right of way, which was used for a horse & cart to go around and empty all the ash pits at the bottom of everyone's gardens. Over the years namely the development of Marywell Gardens which has encroached on this path resulting in the loss of a much used path by walkers and now it seems 26 Marywell is also going to claim this right of access for their own use and block it off. How many more people may feel they have the right to claim parts of the right of way and there is where problems begin.

We also have a major problem in the village with parking & speeding all of which the police and your department are fully aware of. Many road users do not slow down to the speed limit of 30 as it is such a straight road & often results in overtaking while speeding through the village. If permission is granted this will only add to the ongoing dangerous situation that we find we have to live with as the existing house at No.26 & new proposed house will have to find parking spaces for their vehicles and any visitors.

We have enclosed a copy of a map showing the right of ways which we have high lighted in orange and we have also enclosed photos taken while one neighbour had a barbeque, this shows the problems we have with parking.

We trust you will look into the above points fully and we look forward to hearing from you in due course.



Mr & Mrs DJ Charters.

17 Marywell Village
Arbroath
Angus DD11 5RH

Dear Sir

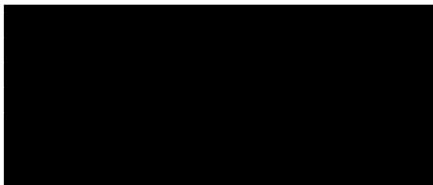
26th April 2014

Mr Steve Smart
Ref. 14/00270/PPL

With reference to the above application for planning permission in principle to build a house at Bourtree Cottage, 26 Marywell Village, we wish to lodge our objection to this being granted.

We would draw your attention to a similar application 08/00652/Scrimger which was refused because most of the houses in the village have large gardens and this will create a precedent. We also have problems in the village with regard to parking and this will only exacerbate this if plan goes through. We notice that the garden ground has already been divided to accommodate the house to be built and that the garage has been demolished and this was built over the right of way because the previous owners Mr and Mrs Williamson did not wish people looking into their property. The right of way has also been taken over by houses built in Marywell Gardens.

We trust you will consider this application fully and we look forward to hearing from you in due course.



Mr Alexander Findlay
Mrs Ann Findlay

RECEIVED

1 - MAY 2014

14/122

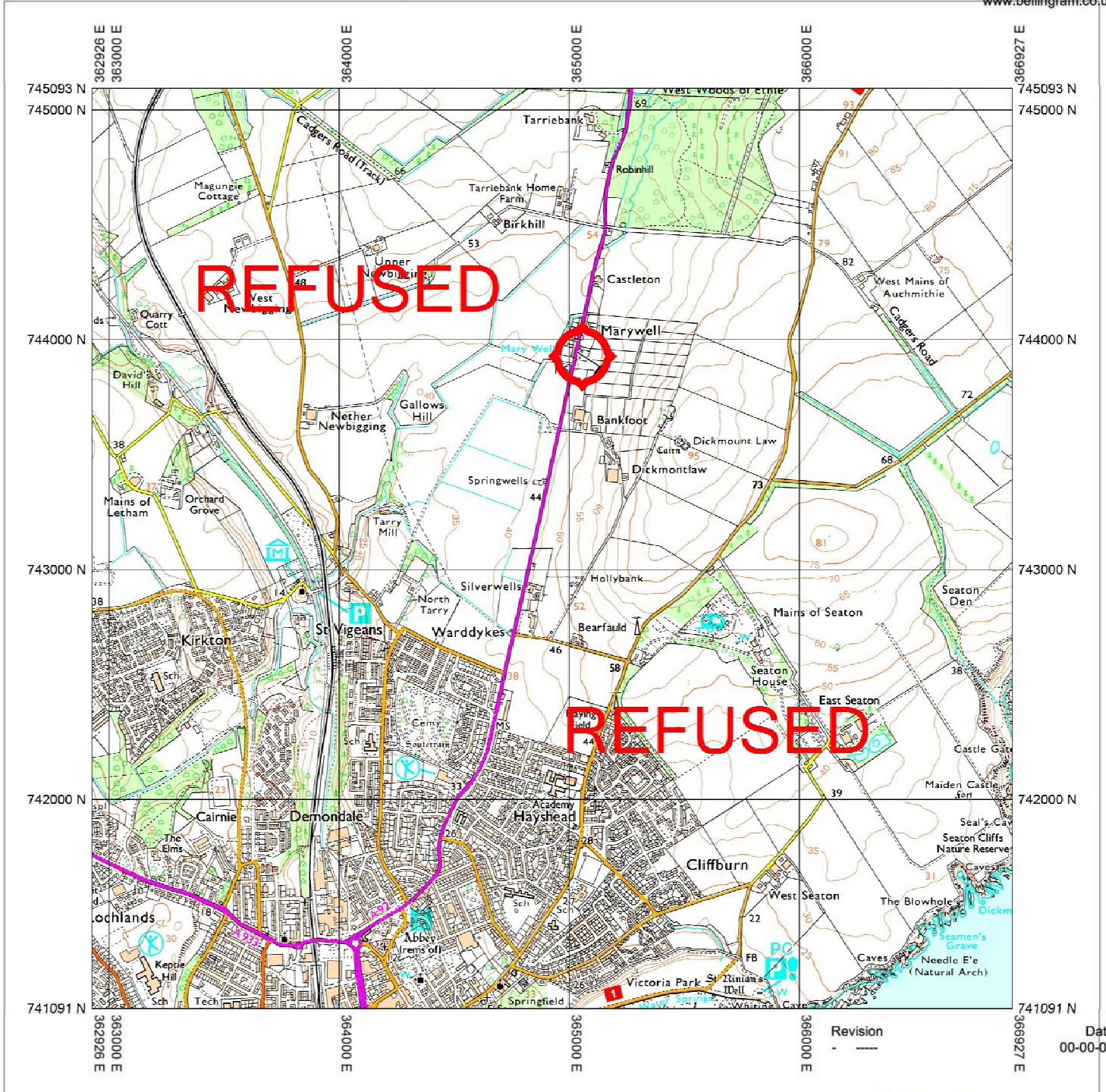


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Mapping sourced from



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 All dimensions to be checked on site
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 Chartered Architects and Building Surveyors
 www.bellingram.co.uk



0 400 800
 Scale 1:25000



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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.

PLANNING

Supplied By: **Bell Ingram Ltd (Forfar)**
 Serial number: 001114168

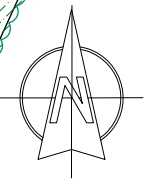
Plot Centre Coordinates: 364926, 743091

Client Mr & Mrs Smart			
Project Land adjacent to Bourtree Cottage, 26 Marywell			
Title Location Plan			
Branch Forfar		Telephone 01307 462516	
Drawn SAR	Date 02/08/13	Drg Size A4	Checked
Job No. S5692		Scale 1:25000	
Drg No. L(PL)002			Rev

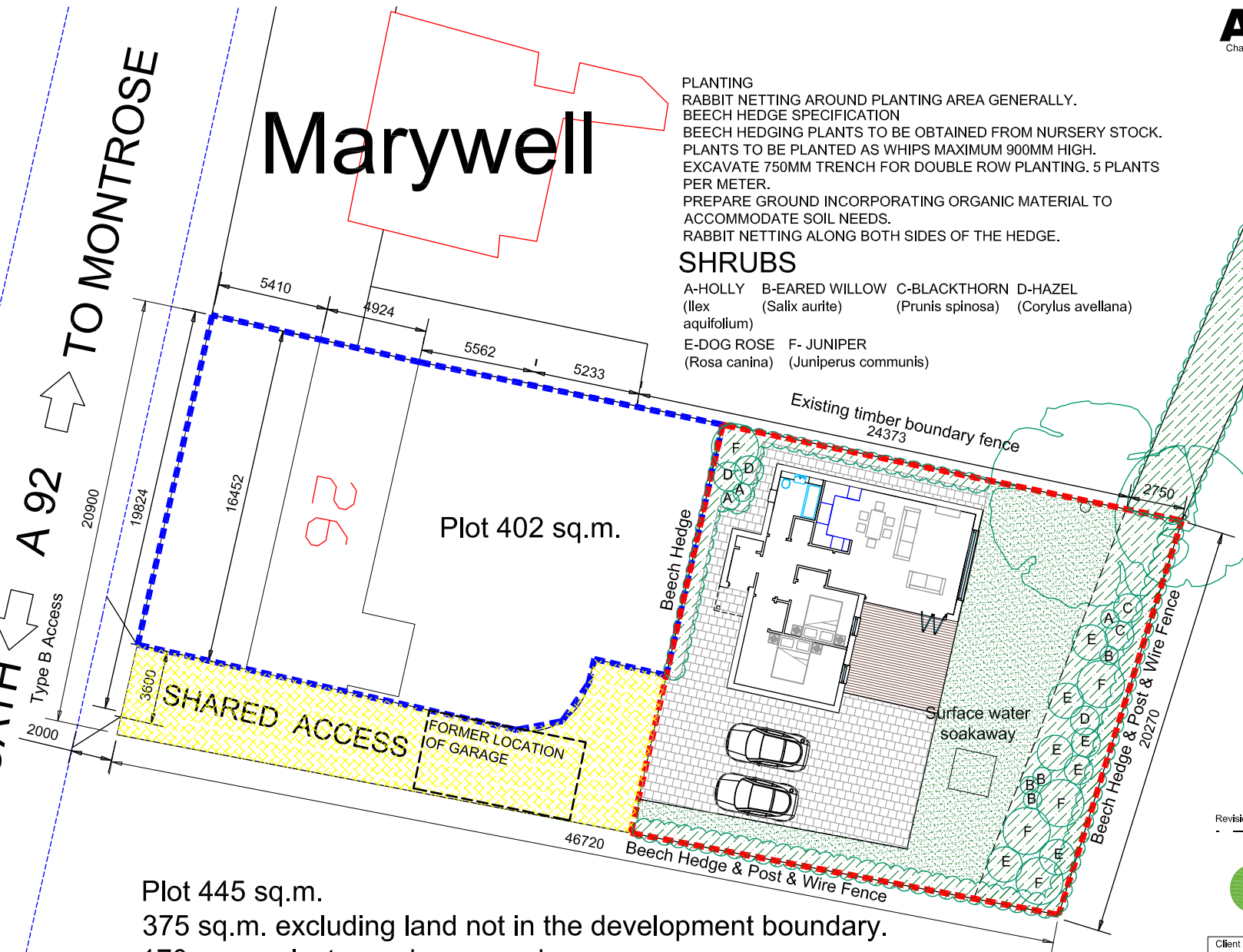
Marywell

PLANTING
 RABBIT NETTING AROUND PLANTING AREA GENERALLY.
BEECH HEDGE SPECIFICATION
 BEECH HEDGING PLANTS TO BE OBTAINED FROM NURSERY STOCK.
 PLANTS TO BE PLANTED AS WHIPS MAXIMUM 900MM HIGH.
 EXCAVATE 750MM TRENCH FOR DOUBLE ROW PLANTING. 5 PLANTS
 PER METER.
 PREPARE GROUND INCORPORATING ORGANIC MATERIAL TO
 ACCOMMODATE SOIL NEEDS.
 RABBIT NETTING ALONG BOTH SIDES OF THE HEDGE.

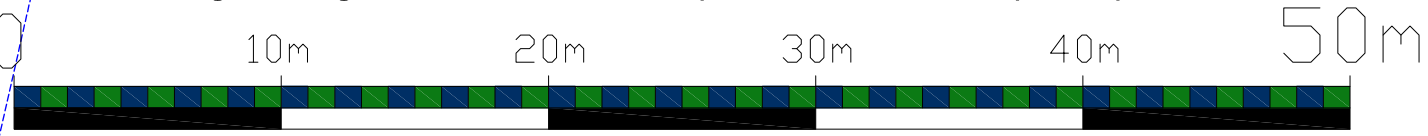
SHRUBS
 A-HOLLY (Ilex aquifolium) B-EARED WILLOW (Salix aurita) C-BLACKTHORN (Prunus spinosa) D-HAZEL (Corylus avellana)
 E-DOG ROSE (Rosa canina) F- JUNIPER (Juniperus communis)



TO ARBROATH
 TO MONTROSE



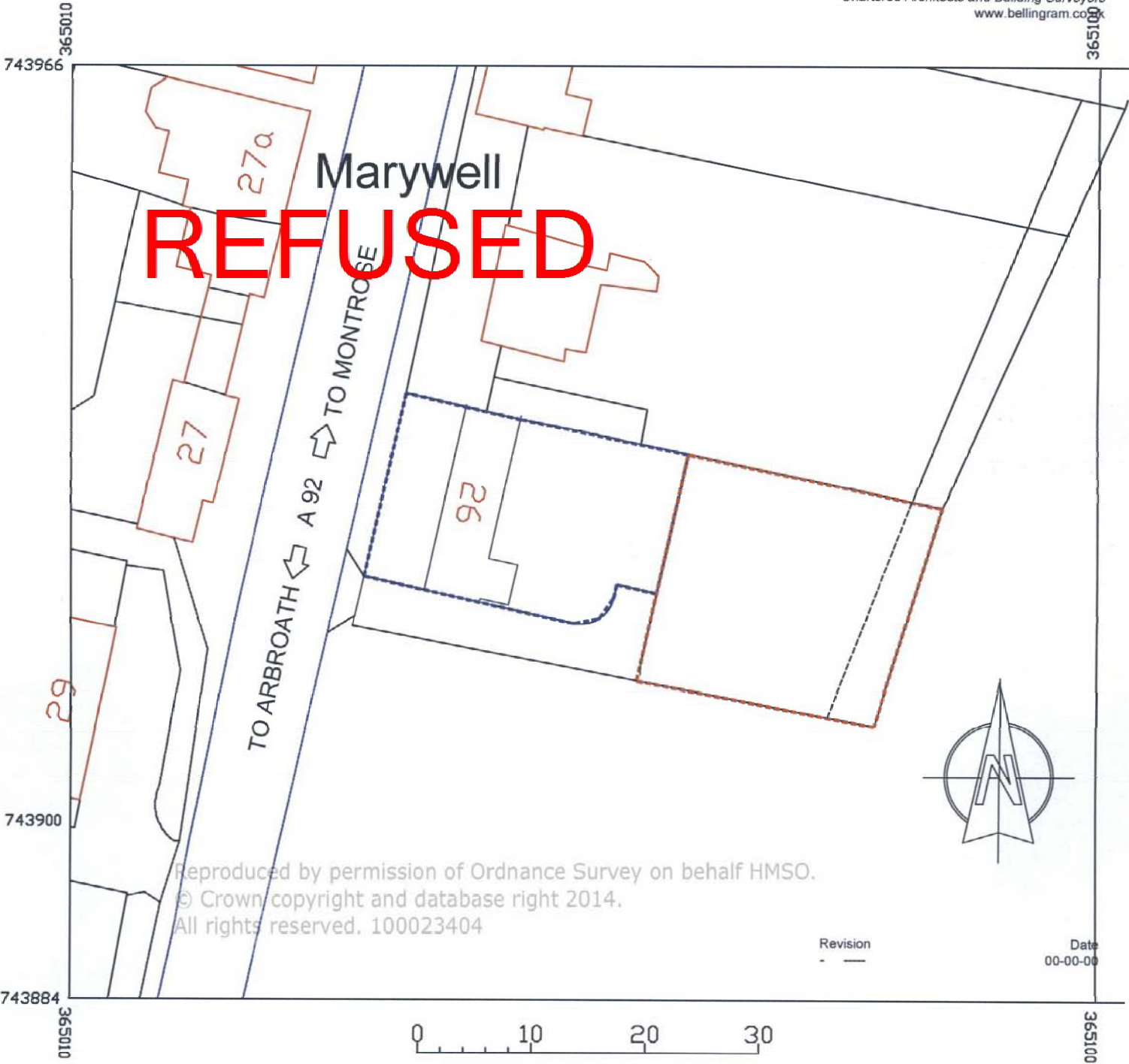
Plot 445 sq.m.
 375 sq.m. excluding land not in the development boundary.
 170 sq.m private garden ground.
 Land outwith the development boundary not included in
 garden ground and to remain permanant landscape strip.



Revision	Date
—	00-00-00



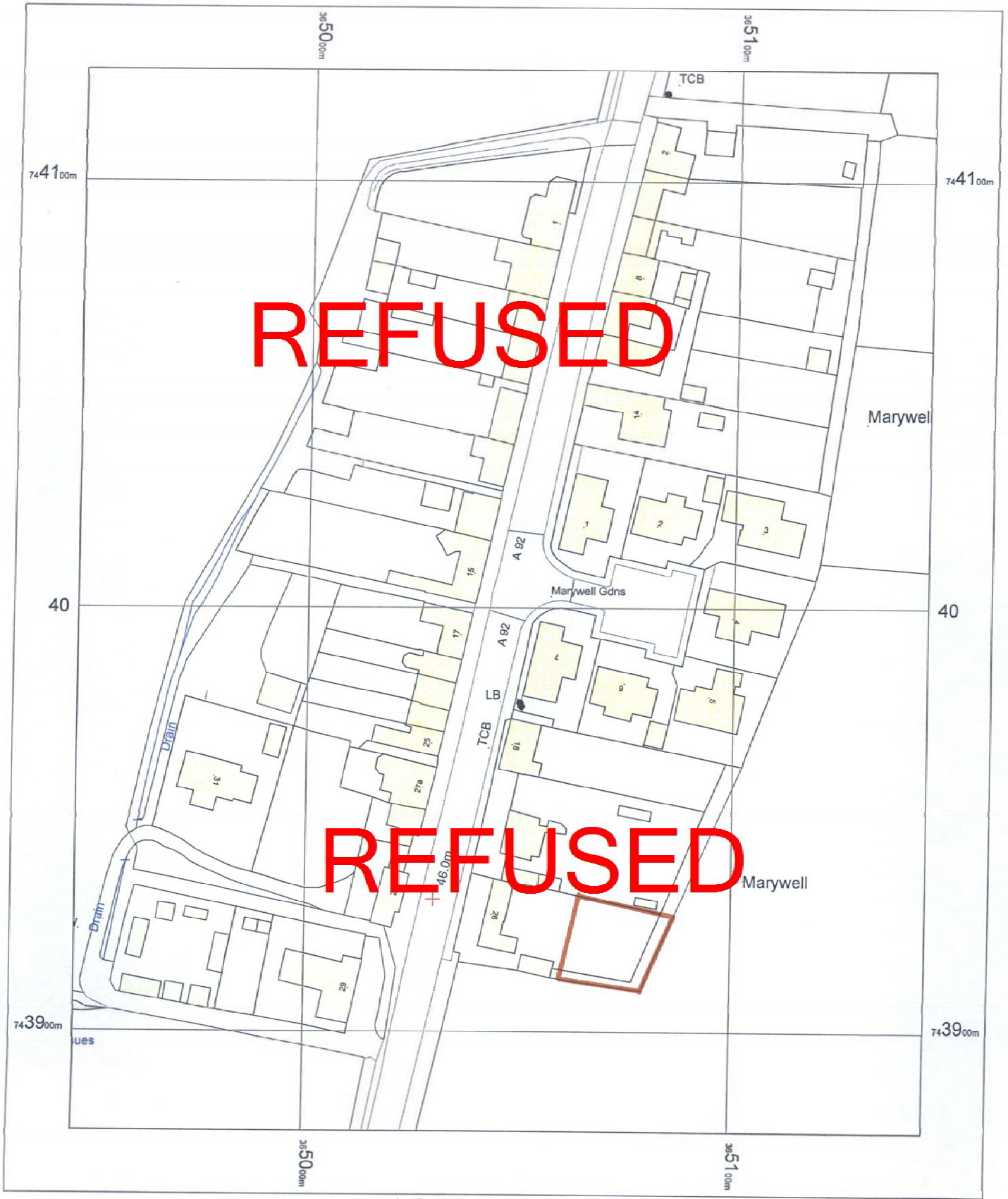
Client Mr & Mrs Smart			
Project Land adjacent to 26 Marywell, Bourtree Cottage			
Title Site Plan			
Branch Forfar	Telephone 01307 462516		
Drawn SAB	Date 19/06/13	Dwg Size A3	Checked
Job No. S5692	Scale 1:200		
Dwg No. L(PL)001			Rev A



PLANNING



Client Mr & Mrs Smart			
Project Land adjacent to Bourtree Cottage, 26 Marywell			
Title Location Plan			
Branch Forfar		Telephone 01307 462516	
Drawn SAR	Date 02/08/13	Drg Size A4	Checked SAR
Job No. S5692		Scale 1:500	
Drg No. L(PL)002			Rev



REFUSED

REFUSED

OS MasterMap 1250/2500/10000 scale
04 April 2014, ID: MNOW-00313635
mapsnow.co.uk

1:1250 scale print at A4, Centre: 365046 E, 744001 N

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100017780









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 14/00270/PPPL

To **Mr Steve Smart**
c/o Bell Ingram Design
Manor Street
Forfar
Angus
DD8 1EX

With reference to your application dated 10 April 2014 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

Erection of a Dwellinghouse - Re-Application at Bourtrees Cottage 26 Marywell Arbroath DD11 5RH for Mr Steve Smart

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 part of the development site lies out with the Development Boundary of Marywell. As such the proposal would represent an unplanned expansion of the Marywell Development Boundary and would therefore be contrary to Policy S1 (c) in the Angus Local Plan Review as there is no proven public interest and social, economic or environmental considerations that would confirm an overriding need for such an expansion.
- 2 That the backland nature of the proposed development would be at odds with the established character and development pattern within Marywell Village which is predominantly that of a linear village of frontage properties with private rear garden areas. In this respect the proposal is contrary to Policy S3 in the Angus Local Plan Review and Angus Council Advice Note 6.
- 3 That the proposed development would not result in the formation of a satisfactory residential environment within the context of the linear village by virtue of the resulting amenity afforded to the original dwelling known as Bourtrees Cottage and the relationship between the site and the private garden ground of Sonora Villa. As such the proposal is contrary to Policy S6 and Policy SC2 in the Angus Local Plan Review as well as Angus Council Advice Note 6.

The application has not been subject of variation.

Dated this **6 June 2014**

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



Proposal supplied to Angus Council

Supplied on:

March 2014

Supplied by:

Bell Ingram Design

Date Founded:

1899

Contact Details:

Manor Street Forfar DD8 1EX
01307 462516

Head Office:

Durn, Isla Road, Perth PH2 7HF
01738 621 121

No of UK offices:

Eleven

Document created by:

Susan Burness Director

Email:

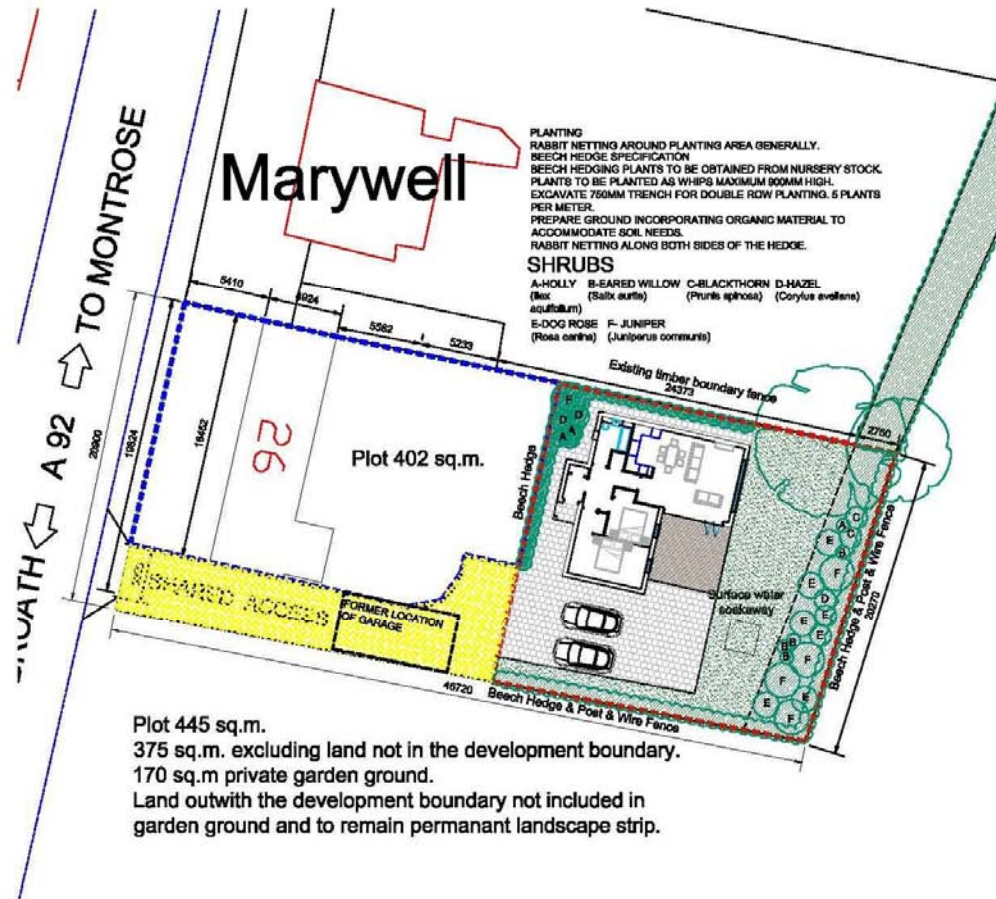
Susan.burness@bellingram.co.uk

www.bellingram.co.uk

Contents

Section 1	Introduction and Background	4
Section 2	Planning Assessment	5
Section 3	Conclusions	12

Section 1- Introduction and Background



The proposal is for a single dwelling house in the garden ground of 26 Marywell.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

INTRODUCTION

The proposed site would be considered backland development. As per planning advice note 6, there is the opportunity for a single dwelling house to be erected where the accommodation provided does not result in undue visual intrusion and where residential standards of space and privacy could be maintained at an acceptable level. The above policy seeks to maximise the development potential which exists within settlements and reduce development pressure on greenfield sites.

The proposed development meets the defined criteria and does not unreasonably impose on the space standards and privacy of existing residents.

COUNCIL POLICY

Planning applications for the development of single (exceptionally two) houses on a backland site will normally be approved where they meet the following criteria. For the purposes of development control a backland site will be defined broadly as "a small area of land to the rear of existing buildings which at no point, except for land reserved for the purposes of an access, adjoins a public road". Normally a backland site will be located within the curtilage of an existing house and will therefore be confined in area by the limits of the curtilage but, irrespective of the area of the site, the principles of control in respect of protecting the privacy and space standards of existing residents remain the same.

PROPOSED DEVELOPMENT

The affect of the proposed development on the adjacent properties is limited.

The property to the North does not over look the development site and therefore its aspect will remain intact.

The property to the west of the site is in the ownership of the applicant. The proposed development retains sufficient private garden ground to the rear of the property to ensure that normal levels of privacy and amenity are maintained.

The proposed development meets criteria 1 to 4 as outlined in planning advice note 6.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET

1. To attract a planning approval, a backland plot will normally require a minimum area of 400 square metres excluding any access strip. In certain exceptional circumstances, this may be relaxed, e.g., where all surrounding gardens are particularly extensive. If the site lies within an existing house curtilage, the original house must also retain at least 400 square metres.

The proposed plot size is 445 square metres (375 square metres excluding land shown as outside development boundary). The proposed development provides 170 square meters of private garden ground not the landscaped strip.

The original house will retain a plot size in excess of 400 square meters.

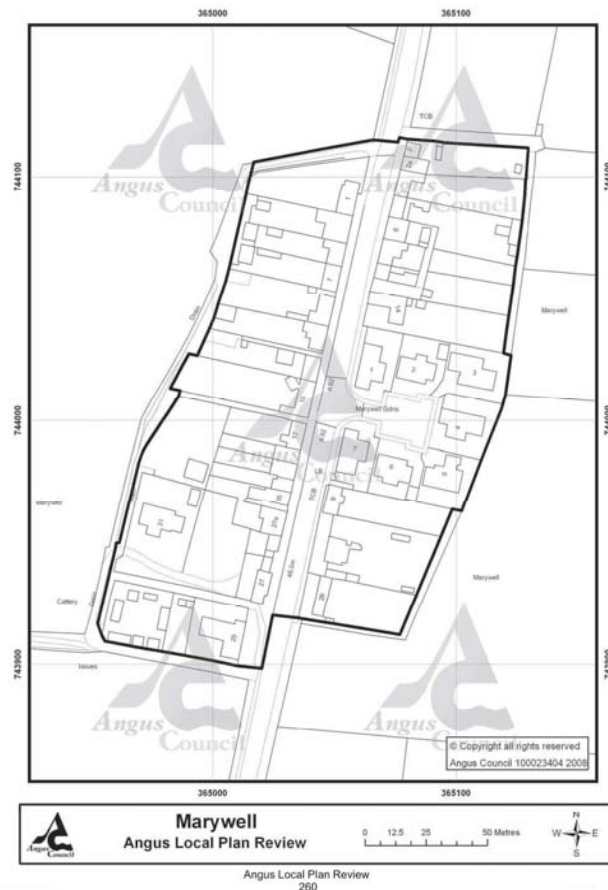
Local Plan

We note that it appears that the strip of land which is currently within the garden ground of the property has been excluded from the local plan. However, even if this land was excluded, the site would still meet the above criteria as this strip of ground will remain as a landscaped area and therefore have no detrimental affect on the development potential of the site. As stated in advice note 6 the requirement for 400 square meters may be relaxed.

The area of land outwith the development boundary is to be a permanent landscape strip which will separate the garden ground from the agricultural land. This strip will be planted with indigenous species of shrubs.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

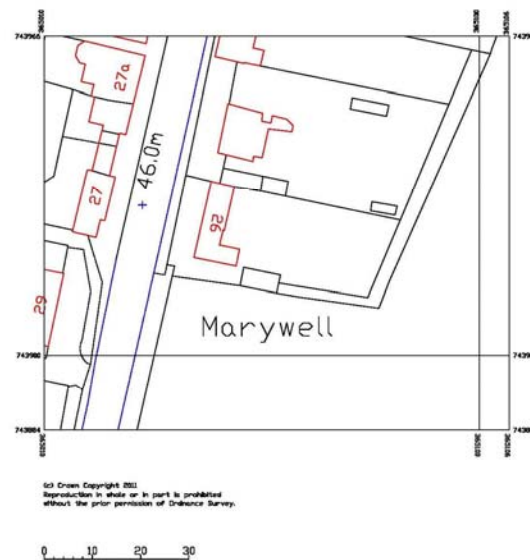


There appears to be a discrepancy between the local plan and previous and current OS Maps.

The village boundary illustrated in the local plan appears to run in a straight line on the outside face of the garage.

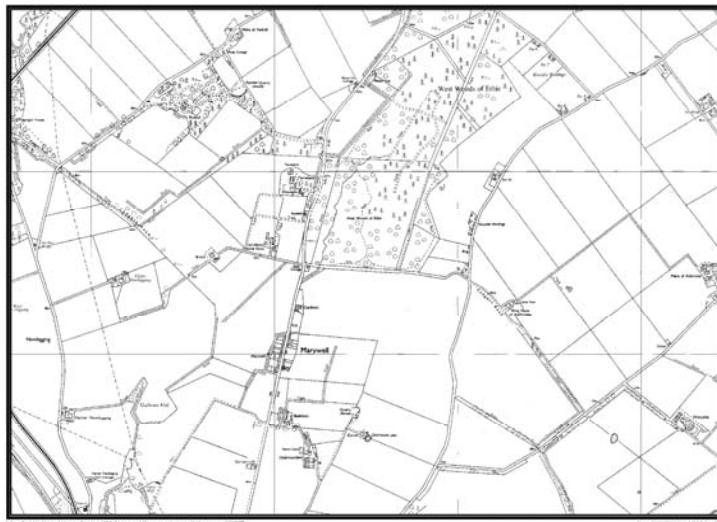
The OS map illustrates that the landscape strip stops to the rear of the garage.

Taking that the village boundary in the local plan is correct this corresponds with the southern boundary of the proposed site plan.



Section 2 - Planning Policy Assessment (Continued)

Planning Assessment



OS Map Circa 1992.
Although paths are indicated to the west and north of Marywell there is no path noted on the drawing to the east or south of the site.



Image circa 1970
This strip of land has now been included within the garden ground of a number of properties in Marywell. It also appears from old photographs that this strip of land has been included in the garden ground of No. 26 Marywell for some time.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET

2. The development can be sited in such a way as to minimise any potential loss of privacy, outlook and space for adjoining residents. A reasonable degree of space can be maintained around and between the new house and those existing.



There is considerable distance between the development and existing houses. The proposed plot fully complies with criteria No. 2

3. As the plot overlooks farmland to the South and East the house can be designed to fully comply with criteria 3.

Required distances between windows can easily be achieved.



Site overlooks farm land to the south and east.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET

4. The proposed dwelling house will be single or 1.5 storeys.
5. A suitably safe access will be provided to the satisfaction of both the roads and planning authorities.
6. The pattern of Marywell is primarily a linear village, however, the linear character of the village has already been compromised by a number of previous developments. In contrast the proposed development will not be impacted on the linear character of the village as it will not be visible on approach to Marywell or from the street.



Existing backland development in Marywell.



Existing housing development adjacent to the site that does not follow the pattern of linear development.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET



Aerial view illustrating a number of developments that have been carried out behind the street frontage. The proposed development will not adversely affect the linear nature of the village.

7. The proposal does not jeopardise the overall planning of the area.

We are aware that the local plan shows the village development boundary to the east of the site following the historic line of the path to the former village well. This is inconsistent with the actual situation on the ground where, as can be seen by the image above, the land has been incorporated into the neighbouring properties as garden ground.



Strip of land that was to the east of Marywell has been incorporated into development site.



Post and wire fence and hedge forms natural boundary between village and agricultural land.

Section 3 - Planning Policy Assessment (Continued)

CONCLUSIONS

- The proposed development meets the criteria of backland development.
- The development meets the principles of control in respect of protecting the privacy and space standards of existing residents.
- The design of the development will not affect the linear nature of Marywell.
- The unique nature of the development means that it will not set a precedent for future development.
- In accordance with the backland development advice guide the benefit of development in line with the policy is that it reduces the demand for new houses on greenfield sites.
- There has been no objection to the development from neighbours that are **adjacent** to the site.



An imposing, Victorian former residence on the banks of the River Tay in Perth, the Durn has been Bell Ingram's headquarters since 1962.

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

BOURTREE COTTAGE, 26 MARYWELL, ARBROATH

APPLICATION NO 14/00270/PPPL

APPLICANT'S SUBMISSION

- ITEM 1** Notice of Review
- ITEM 2** Statement
- ITEM 3** Reasoned Justification
- ITEM 4** Drawing L(PL)001 Site Plan
- ITEM 5** Drawing L(PL)002 Location Plan

4 - JUL 2014

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	Steve	Forename	Susan
Surname	Smart	Surname	Burness
Company Name	C/O Bell Ingram Design	Company Name	Bell Ingram Design
Building No./Name	Manor Street	Building No./Name	Manor Street
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City	Forfar	Town/City	Forfar
Postcode	DD8 1EX	Postcode	DD8 1EX
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	susan.burness@bellingham.co.uk
3. Application Details			
Planning authority	Angus Council		
Planning authority's application reference number	14/00270/PPL		
Site address	Bourtree Cottage, 26 Marywell, Arbroath Dd11 5RH		
Description of proposed development	Erection of Dwelling House		

RECEIVED
04 JUL 2014

Date of application Date of decision (if any)

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

SCANNED

04 JUL 2014

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.

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:

No

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.

Please see attached statement

SCANNED
04 JUL 2014

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

Reasoned Justification
Drawing L(PL)001 Site Plan
Drawing L(PL)002 Location Plan

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:

Date:

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.

SCANNED

04 JUL 2014

**Local Review Body Planning Appeal Statement
Planning Application Ref: 14/0270/PPPL****Introduction**

Planning permission in principle was sought for a single house development on an area of garden ground to the east of Bourtree Cottage. Permission was refused by Angus Council under delegated powers on 6th June 2014. The reasons given were;

- 1 That part of the development site lies out with the Development Boundary of Marywell. As such the proposal would represent an unplanned expansion of the Marywell Development Boundary and would therefore be contrary to Policy S1
- 2 That the back land nature of the proposed development would be at odds with the established character and development pattern within Marywell Village which is predominantly that of a linear village of frontage properties with private rear garden areas.
- 3 That the proposed development would not result in the formation of a satisfactory residential environment within the context of the linear village by virtue of the resulting amenity afforded to the original dwelling known as Bourtree Cottage and the relationship between the site and the private garden ground of Sonora Villa.

PROPOSED DEVELOPMENT**1 Policy S1(c)****Local Plan**

There appears to be a discrepancy between the local plan and previous and current OS Maps.

The village boundary illustrated in the local plan appears to run in a straight line on the outside face of the garage.

The OS map illustrates that the landscape strip stops to the rear of the garage.

Taking that the village boundary in the local plan is correct, this actually corresponds with the southern boundary of the proposed site plan.

This strip of land, which was formally a path to the well, has been included within the garden ground of a number of properties in Marywell. It also appears from old photographs, that this strip of land has been included in the garden ground of Bourtree Cottage for some time. Aerial photograph circa 1970 clearly illustrates that there was no landscape strip around the garden at that time.

The proposals include reinstatement of the landscaped strip on the ground that was formally the path to the well.

**2 Policy S3 in the Angus Local Plan Review and Angus Council Advice
Note 6.**

The proposed dwelling house will be single or 1.5 storeys.

A suitably safe access will be provided to the satisfaction of both the roads and planning authorities.

No objection was received from the roads department.

The pattern of Marywell is primarily a linear village, however, the linear character of the village has already been compromised by a number of previous developments. In contrast the proposed development will not be impacted on the linear character of the village as it will not be visible on approach to Marywell nor from the Main Street.

3 Policy S6 and Policy SC2 in the Angus Local Plan Review as well as Angus Council Advice Note 6

The proposed site would be considered back land development. As per planning advice note 6, there is the opportunity for a single dwelling house to be erected where the accommodation provided does not result in undue visual intrusion and where residential standards of space and privacy could be maintained at an acceptable level. The above policy seeks to maximise the development potential which exists within settlements and reduce development pressure on greenfield sites.

To attract a planning approval, a back land plot will normally require a minimum area of 400 square metres excluding any access strip. In certain exceptional circumstances, this may be relaxed, e.g., where surrounding gardens are particularly extensive. If the site lies within an existing house curtilage, the original house must also retain at least 400 square metres.

The proposed plot size is 445 square metres (375 square metres excluding land shown as outside development boundary). The proposed development provides 170 square meters of private garden ground, not including the landscaped strip.

The original house will retain a plot size in excess of 400 square meters.

The proposed development meets the defined criteria and does not unreasonably impose on the space standards and privacy of existing residents.

Sonora Villa to the North does not overlook the development site and therefore its aspect will remain intact.

The property to the west of the site is in the ownership of the applicant. The proposed development retains sufficient private garden ground to the rear of the property to ensure that normal levels of privacy and amenity are maintained.

Neither property will be over looked by the new house as views will be towards the open countryside.

The proposed development meets all criteria outlined in planning advice note 6.

Conclusions

We are requesting a Review of the decision because we do not think that due consideration has been given by the Planning Officer to;

- The fact that the development boundary is not representative of the factual village boundary as evidenced on site or in accordance with previous OS Plans and historic photographs.
- The applicant does not intend to develop the area of land that is out with the planning boundary.
- The linear character of the village is not affected by the development.
- The application is in accordance with advice note 6.

We have explained above why this is in accordance with the local plan. Once the principle has been agreed, a full planning application as a next stage would provide an appropriate design solution which would ensure the development meets the requirements of Policy S1, S3, SC6, other relevant policies in the Local Plan.

We submitted clear photograph, historic and anecdotal evidence in support of all the statements noted above.

In reviewing this decision we would respectfully request that the Panel visit the site. This would provide the opportunity to assess the visual amenity of this site and how there is limited views into the site from the Main Street. We believe the proposed development meets all the relevant criteria in Local Plan policies for a development in principle and would safeguard the character and quality Marywell. We respectfully request that planning permission in principle is therefore granted.



SCANNED
04 JUL 2014

Planning application for single dwelling house in garden ground of 26 Marywell, Angus
March 2014



**Proposal supplied to
Angus Council**

Supplied on:
March 2014

Supplied by:
Bell Ingram Design

Date Founded:
1899

Contact Details:
Manor Street Forfar DD8 1EX
01307 462516

Head Office:
Dum, Isla Road, Perth PH2 7HF
01738 621 121

No of UK offices:
Eleven

Document created by:
Susan Burness Director

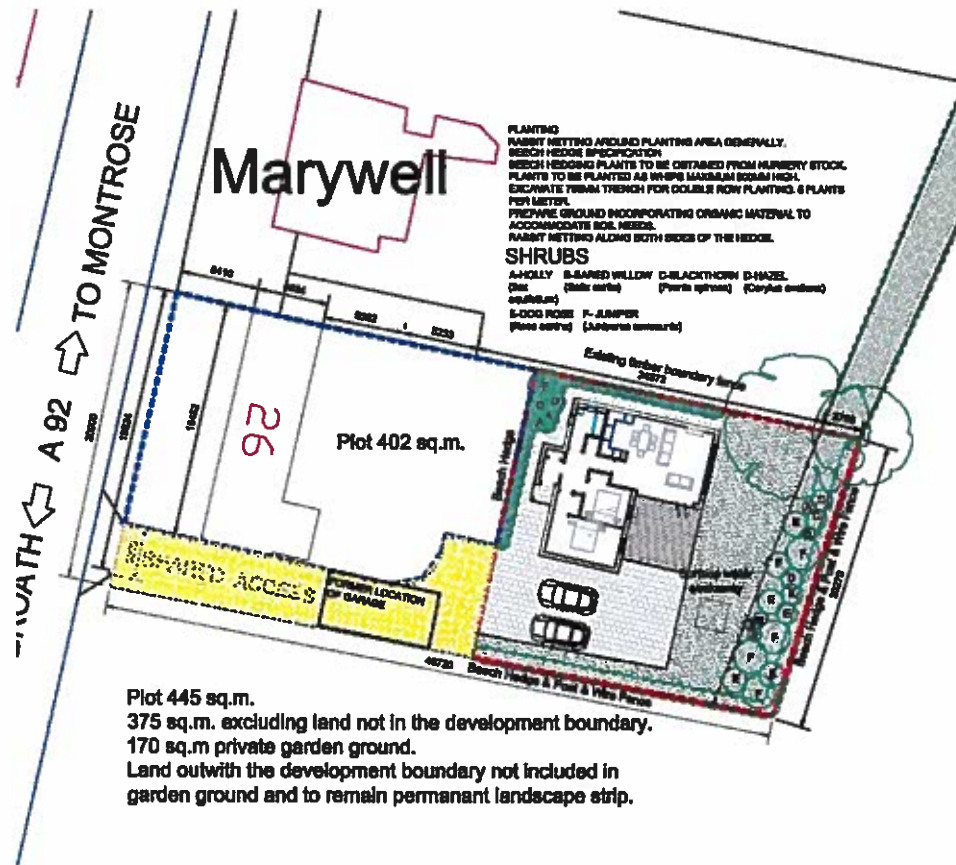
Email:
Susan.burness@bellingham.co.uk

www.bellingram.co.uk

Contents

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Section 2	Planning Assessment	5
Section 3	Conclusions	12

Section 1- Introduction and Background



The proposal is for a single dwelling house in the garden ground of 26 Marywell.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

INTRODUCTION

The proposed site would be considered backland development. As per planning advice note 6, there is the opportunity for a single dwelling house to be erected where the accommodation provided does not result in undue visual intrusion and where residential standards of space and privacy could be maintained at an acceptable level. The above policy seeks to maximise the development potential which exists within settlements and reduce development pressure on greenfield sites.

The proposed development meets the defined criteria and does not unreasonably impose on the space standards and privacy of existing residents.

COUNCIL POLICY

Planning applications for the development of single (exceptionally two) houses on a backland site will normally be approved where they meet the following criteria. For the purposes of development control a backland site will be defined broadly as "a small area of land to the rear of existing buildings which at no point, except for land reserved for the purposes of an access, adjoins a public road". Normally a backland site will be located within the curtilage of an existing house and will therefore be confined in area by the limits of the curtilage but, irrespective of the area of the site, the principles of control in respect of protecting the privacy and space standards of existing residents remain the same.

PROPOSED DEVELOPMENT

The affect of the proposed development on the adjacent properties is limited.

The property to the North does not over look the development site and therefore its aspect will remain intact.

The property to the west of the site is in the ownership of the applicant. The proposed development retains sufficient private garden ground to the rear of the property to ensure that normal levels of privacy and amenity are maintained.

The proposed development meets criteria 1 to 4 as outlined in planning advice note 6.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET

1. To attract a planning approval, a backland plot will normally require a minimum area of 400 square metres excluding any access strip. In certain exceptional circumstances, this may be relaxed, e.g., where all surrounding gardens are particularly extensive. If the site lies within an existing house curtilage, the original house must also retain at least 400 square metres.

The proposed plot size is 445 square metres (375 square metres excluding land shown as outside development boundary). The proposed development provides 170 square meters of private garden ground not the landscaped strip.

The original house will retain a plot size in excess of 400 square meters.

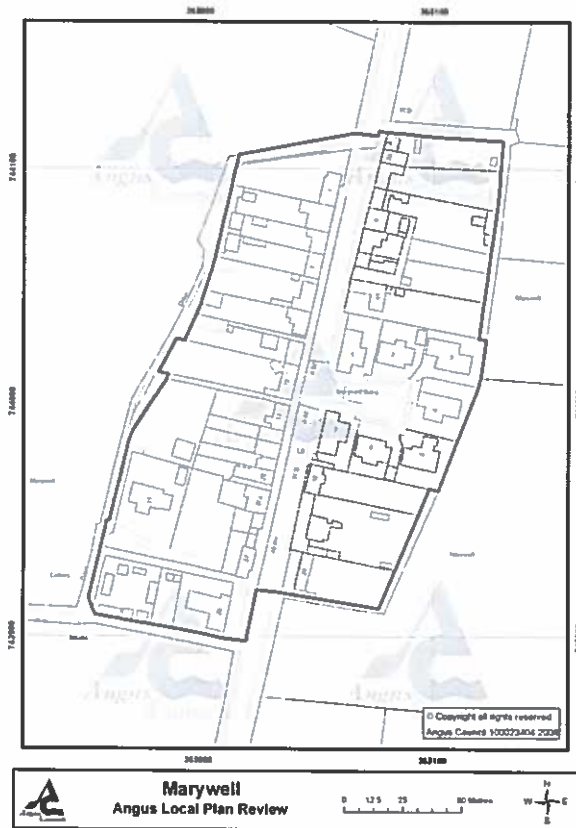
Local Plan

We note that it appears that the strip of land which is currently within the garden ground of the property has been excluded from the local plan. However, even if this land was excluded, the site would still meet the above criteria as this strip of ground will remain as a landscaped area and therefore have no detrimental affect on the development potential of the site. As stated in advice note 6 the requirement for 400 square meters may be relaxed.

The area of land outwith the development boundary is to be a permanent landscape strip which will separate the garden ground from the agricultural land. This strip will be planted with indigenous species of shrubs.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

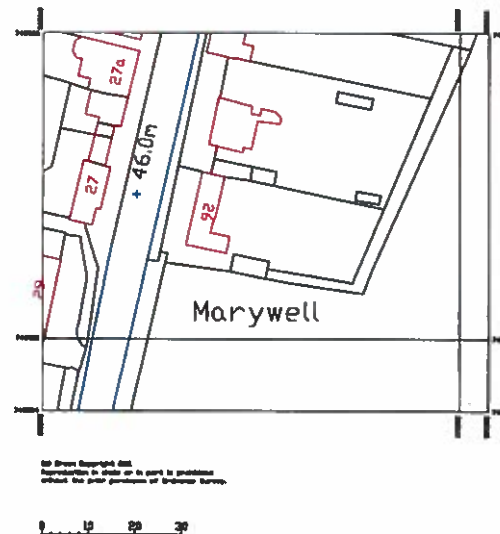


There appears to be a discrepancy between the local plan and previous and current OS Maps.

The village boundary illustrated in the local plan appears to run in a straight line on the outside face of the garage.

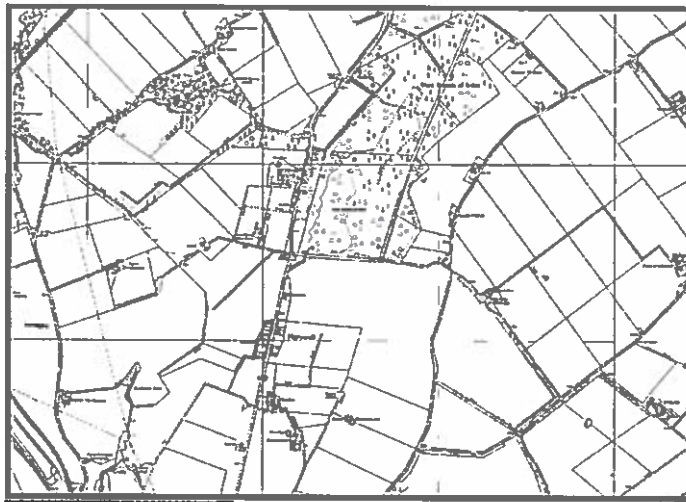
The OS map illustrates that the landscape strip stops to the rear of the garage.

Taking that the village boundary in the local plan is correct this corresponds with the southern boundary of the proposed site plan.



Section 2 - Planning Policy Assessment (Continued)

Planning Assessment



OS Map Circa 1992.
Although paths are indicated to the west and north of Marywell there is no path noted on the drawing to the east or south of the site.



Image circa 1970
This strip of land has now been included within the garden ground of a number of properties in Marywell. It also appears from old photographs that this strip of land has been included in the garden ground of No. 26 Marywell for some time.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET

2. The development can be sited in such a way as to minimise any potential loss of privacy, outlook and space for adjoining residents. A reasonable degree of space can be maintained around and between the new house and those existing.



There is considerable distance between the development and existing houses. The proposed plot fully complies with criteria No. 2

3. As the plot overlooks farmland to the South and East the house can be designed to fully comply with criteria 3.

Required distances between windows can easily be achieved.



Site overlooks farm land to the south and east.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET

- 4. The proposed dwelling house will be single or 1.5 storeys.
- 5. A suitably safe access will be provided to the satisfaction of both the roads and planning authorities.
- 6. The pattern of Marywell is primarily a linear village, however, the linear character of the village has already been compromised by a number of previous developments. In contrast the proposed development will not be impacted on the linear character of the village as it will not be visible on approach to Marywell or from the street.



Existing backland development in Marywell.



Existing housing development adjacent to the site that does not follow the pattern of linear development.

Section 2 - Planning Policy Assessment (Continued)

Planning Assessment

CRITERIA TO BE MET



Aerial view illustrating a number of developments that have been carried out behind the street frontage. The proposed development will not adversely affect the linear nature of the village.

7. The proposal does not jeopardise the overall planning of the area.

We are aware that the local plan shows the village development boundary to the east of the site following the historic line of the path to the former village well. This is inconsistent with the actual situation on the ground where, as can be seen by the image above, the land has been incorporated into the neighbouring properties as garden ground.



Strip of land that was to the east of Marywell has been incorporated into development site.



Post and wire fence and hedge forms natural boundary between village and agricultural land.

Section 3 - Planning Policy Assessment (Continued)

CONCLUSIONS

- The proposed development meets the criteria of backland development.
- The development meets the principles of control in respect of protecting the privacy and space standards of existing residents.
- The design of the development will not affect the linear nature of Marywell.
- The unique nature of the development means that it will not set a precedent for future development.
- In accordance with the backland development advice guide the benefit of development in line with the policy is that it reduces the demand for new houses on greenfield sites.
- There has been no objection to the development from neighbours that are adjacent to the site.

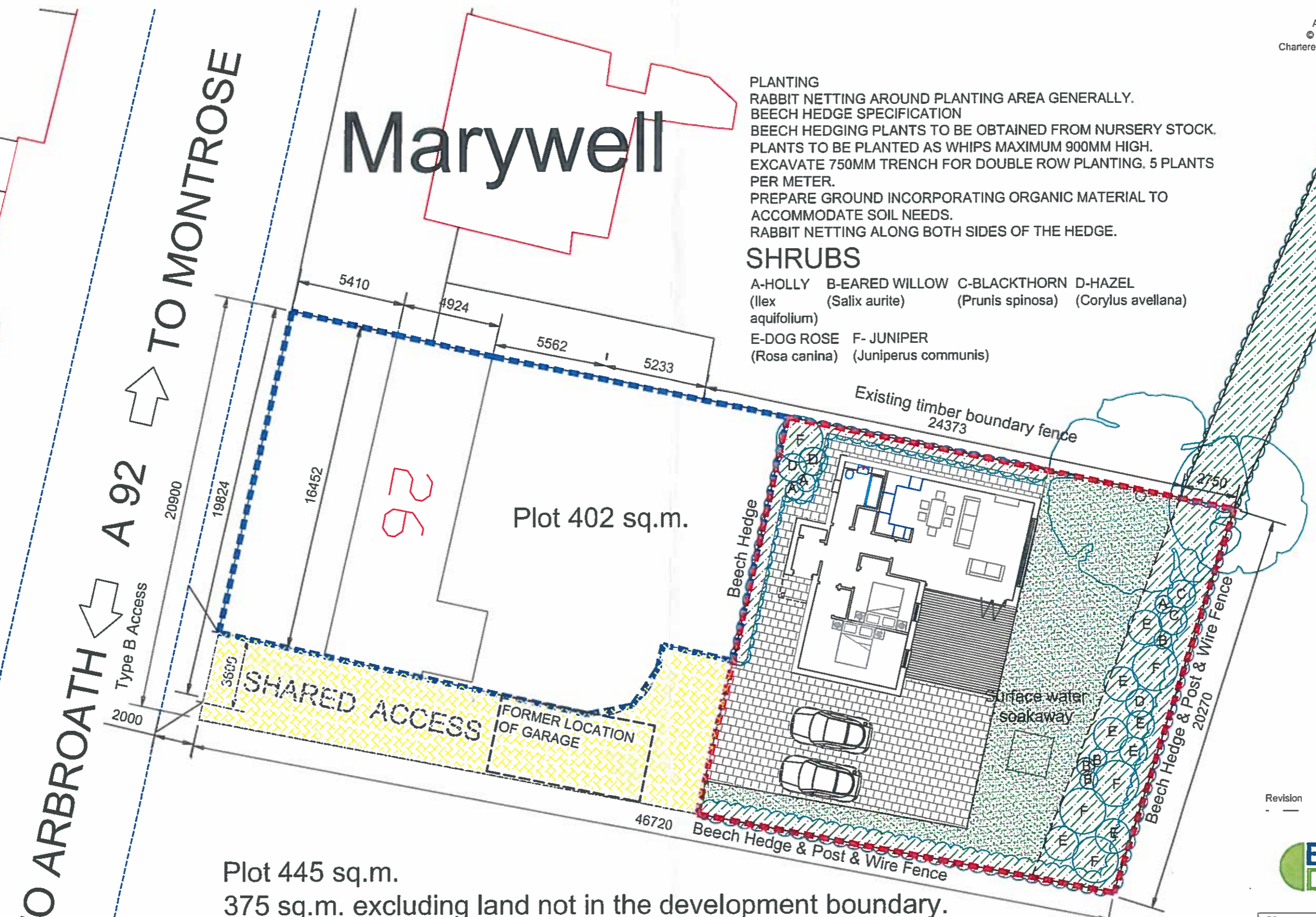


An imposing, Victorian former residence on the banks of the River Tay in Perth, the Durn has been Bell Ingram's headquarters since 1962.

Marywell

PLANTING
 RABBIT NETTING AROUND PLANTING AREA GENERALLY.
BEECH HEDGE SPECIFICATION
 BEECH HEDGING PLANTS TO BE OBTAINED FROM NURSERY STOCK.
 PLANTS TO BE PLANTED AS WHIPS MAXIMUM 900MM HIGH.
 EXCAVATE 750MM TRENCH FOR DOUBLE ROW PLANTING. 5 PLANTS PER METER.
 PREPARE GROUND INCORPORATING ORGANIC MATERIAL TO ACCOMMODATE SOIL NEEDS.
 RABBIT NETTING ALONG BOTH SIDES OF THE HEDGE.

SHRUBS
 A-HOLLY B-EARED WILLOW C-BLACKTHORN D-HAZEL
 (Ilex (Salix aurite) (Prunus spinosa) (Corylus avellana) aquifolium)
 E-DOG ROSE F- JUNIPER
 (Rosa canina) (Juniperus communis)



Plot 445 sq.m.
 375 sq.m. excluding land not in the development boundary.
 170 sq.m private garden ground.
 Land outwith the development boundary not included in garden ground and to remain permanant landscape strip.



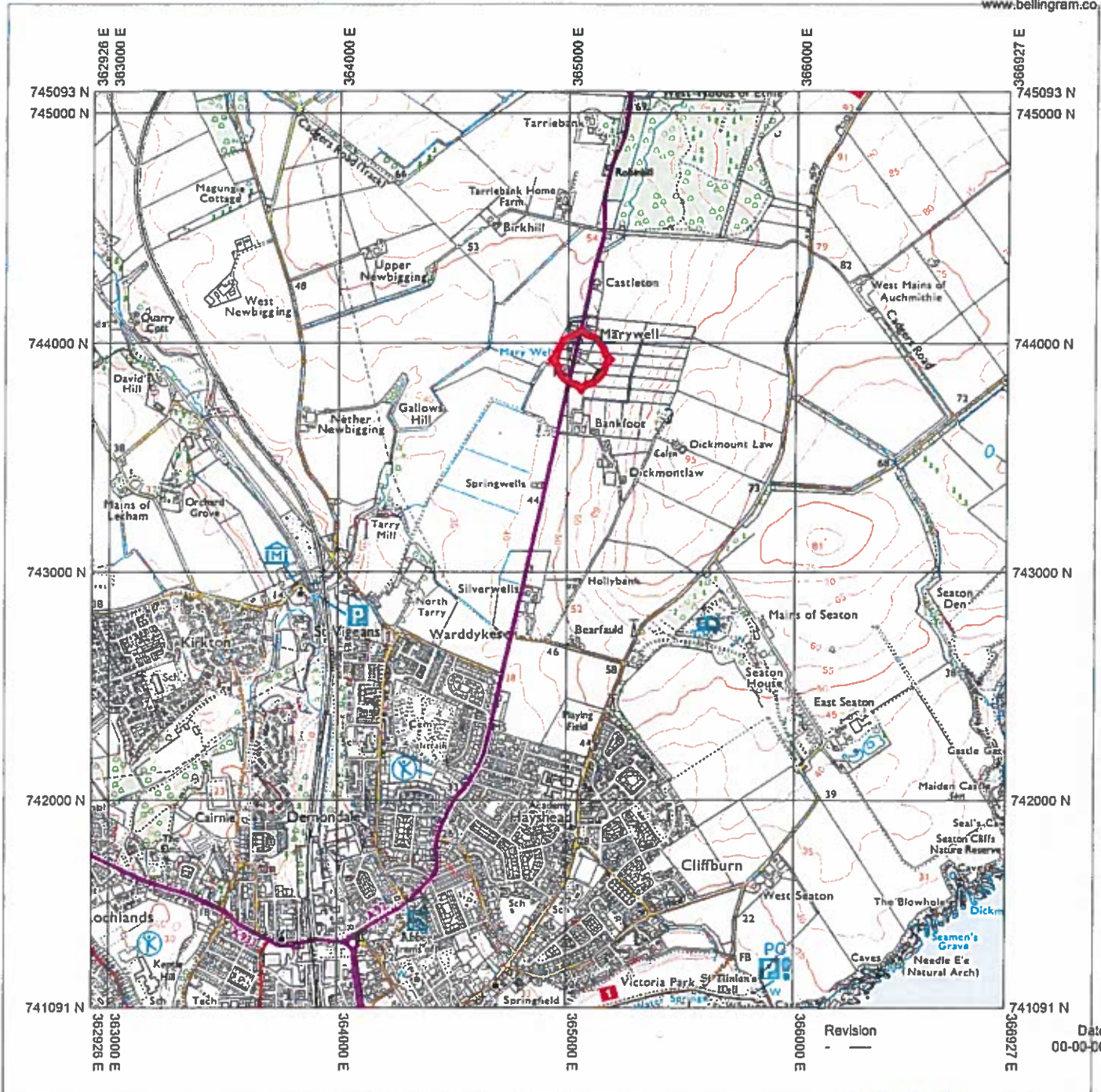
Revision _____ Date 00-00-00



Client Mr & Mrs Smart			
Project Land adjacent to 26 Marywell, Bourtree Cottage			
Title Site Plan			
Branch Forfar	Telephone 01307 462516		
Drawn SAB	Date 19/06/13	Drg Size A3	Checked
Job No. S5692	Scale 1:200		
Drg No. L(PL)001			Rev A



Do not scale from this drawing
 All dimensions to be checked on site
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 Chartered Architects and Building Surveyors
 www.bellingram.co.uk



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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.

PLANNING

Supplied By: **Bell Ingram Ltd (Forfar)**
 Serial number: 001114168
 Plot Centre Coordinates: 364926, 743091

Client Mr & Mrs Smart			
Project Land adjacent to Bourtree Cottage, 26 Marywell			
Title Location Plan			
Branch Forfar		Telephone 01307 462516	
Drawn SAR	Date 02/08/13	Drg Size A4	Checked
Job No. S5692		Scale 1:25000	
Drg No. L(PL)002			Rev