ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 13 SEPTEMBER 2016 38 ROSSIE STREET, 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 for erection of a conservatory, application No 16/00422/FULL, at 38 Rossie Street, 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 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

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

Report Author: Sarah Forsyth E-Mail: LEGDEM@angus.gov.uk

List of Appendices:

Appendix 1 – Submission by Planning Authority

Appendix 2 – Submission by Applicant

APPENDIX 1

ANGUS COUNCIL'S SUMISSION IN RESPECT OF REFUSAL OF PLANNING PERMISSION

APPLICATION NUMBER - 16/00422/FULL

APPLICANT- MISS P CARGILL

PROPOSAL & ADDRESS – ERECTION OF NEW CONSERVATORY AT 38 ROSSIE STREET, ARBROATH, DD11 3DF

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Angus Council

Application Number:	16/00422/FULL		
Description of Development:	Erection of a New Conservatory		
Site Address:	38 Rossie Street Arbroath DD11 3DF		
Grid Ref:	363650 : 741305		
Applicant Name:	Miss P Cargill		

Report of Handling

Site Description

The property is an end terraced dwelling positioned on the northern side of a long rectangular 252 square metre flat site. The property is part of a row of ten properties within a predominantly residential area in Arbroath. The boundaries of the site consist of 1.7 metre high walls on the east and west boundaries and a wall exceeding 2 metres high and a flat roof garage on the south boundary. The site is bound by Lochlands Road and Tesco to the east, a car park to the south, Rossie Street to the north and neighbouring adjoining dwellings to the west. The rear garden is laid out in grass, borders and some hard standing.

Proposal

The proposal relates to the formation of 14 square metre (sqm) conservatory extension within a recessed area which would extend upon an existing extension on the south/rear elevation of the 1½ storey end terraced dwellinghouse. The proposed materials would be dry dash render, rosewood coloured pvcu frame and a glazed roof. The dwelling has been extended previously with various extensions, a flat roof extension connecting to the lounge and west boundary, a flat roof extension connecting to the kitchen and east boundary, a flat roof upper level extension above the kitchen and small box dormer on the south roof plane.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The nature of the proposal did not require that the application be the subject of press advertisement.

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

Planning History

None.

Applicant's Case

No information has been submitted.

Consultations

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

Angus Council - Roads - Offered no objection on 10 June 2016.

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

Representations

There were no letters of representation.

Development Plan Policies

Angus Local Plan Review 2009

Policy S6: Development Principles (Schedule 1)

Policy SC15: House Extensions

TAYplan Strategic Development plan

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

Other Guidance

Advice Note 19: House Extensions

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

Assessment

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

Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014. It 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 and represents Angus Council's settled view in relation to the appropriate use of land within the Council area. Unresolved representations to the Proposed ALDP have been considered by Scottish Ministers at an Examination and the report on that Examination, which includes the Reporters recommendations, was published on 8 June 2016. The Proposed ALDP and the Reporters recommendations are material considerations in the determination of applications. The policies of the Proposed Plan and the Reporters recommendations are only referred to where they would materially alter the recommendation or decision.

Advice Note 19 'House Extensions' indicates that extensions exceeding 50% of the original house are more likely to receive approval where accommodation is restricted and where the extension would not be seen from any public area. It adds that there may be circumstances where a house has been extended to its limit and extending further may not be achievable. It advises that loss of sunlight or daylight can create issues and every effort should be made to minimise potential impacts on the nearest neighbours, complying with the 45 degree rule is expected to alleviate issues. The 45 degree rule involves drawing a line from mid-point of the potentially impacted window and if the extension crosses that line, it is unlikely to be acceptable. It further provides recommended distances between walls and windows to maintain

acceptable distances between houses.

Policy SC15 relates to proposals for house extensions and this policy requires consideration of (1) the impact of a proposal on the character and appearance of the dwelling and surrounding area; (2) the impact of a proposal on the residential amenity enjoyed adjoining households; (3) the impact of a proposal on the availability of private garden ground; and (4) the impact of the proposal on parking provision. The proposal would not result in the reduction of garden ground (3) to an unacceptable level and car parking (4) remains unaltered which is acceptable with the Roads Service.

In terms of design (1), the house is located within an established row of ten terraced houses all of which are sited on long narrow plots. Some of the houses have been extended throughout the row, especially the last four properties on the east end of the row where the application site is situated. The entire rear elevation of the application house has been extended as well as a large majority of the roof plane, which has resulted in the character and form of the property being completely altered from its original form. The proposed extension would further add to the existing extensions; utilising a recessed area nearest to the shared west boundary. Although the extension would add to an already heavily extended house, the rear of the property is very private from the easterly public road and the addition of a standard designed, hipped roof conservatory would not be detrimental to the appearance of the house. This is due to its already altered appearance and the fact that it would not be seen from the public road. In the context of this test only the proposal would not conflict with Advice Note 19. Notwithstanding the design only, the location of the proposal does give rise to significant and unacceptable amenity impacts, which are discussed below.

In terms of amenity (2), as advised the conservatory would infill an existing recessed area to the rear of the property which would result in the side elevation projecting 3.655 metres along the shared west boundary. The side elevation would be parallel with the adjoining neighbour's east elevation kitchen window resulting in a distance of 2.8 metres - this would fail the recommended distance of 10 metres as indicated in Advice Note 19 by a large margin. It is recognised the neighbour's kitchen window faces the boundary wall at the same 2.8 metre distance; however, the existing wall is relatively low at 1.4 metre high. The creation of a 2.7 metre high wall in its place is considered to be significantly overbearing to the window and it is highly likely that the path of daylight and sunlight in the morning will be detrimentally hindered. Furthermore, there is a window serving a sitting room on the south elevation of the neighbour's house, in close proximity to the boundary. By applying the 45 degree rule to this situation, it is found that half the conservatory crosses the line. This test therefore indicates that, due to the positioning and height of the proposed conservatory, it would be highly likely that there would be a substantial loss of daylight and sunlight received by this window. This impact would create an unacceptable impact on the amenity of the neighbouring property through overshadowing. Furthermore, the presence of the extension within such close proximity of this room would have an overbearing effect on the occupants of this house. For these reasons, the proposal would have a significant adverse impact on both windows of the neighbouring property and the residential amenity enjoyed by the occupants. The proposal would not therefore accord with the objectives of Advice Note 19. This resulting impact is further recognized by The Building Research Establishment guidance for daylight and sunlight which indicates that extensions on either side of a window can create a tunnel effect which would result in unacceptable overshadowing. The plots of the row are narrow and there is a limit to how far a house within this terraced row can be extended without impacting on the nearest neighbour. Considering the above impacts it is concluded that the application house has been extended to its limit as further expansion would create significant residential amenity issues. The proposal would therefore not accord with test (2) of policy SC15 and the provisions of Advice Note 19.

Policy S6 and the associated Schedule 1 Development Principles are also relevant to this application. This includes considerations relating to amenity; roads/parking/access; landscaping/open space/biodiversity; drainage and flood risk; waste management; and supporting information. As discussed above the proposal is considered to give rise to unacceptable amenity impacts. However, there are no issues against the remaining criteria of Schedule 1.

In conclusion the application is contrary to policies SC15 and S6 as well as the guidance provided by

Advice Note 19 and The Building Research Establishments guidance. The proposal would have an adverse impact on the neighbour's residential amenity by virtue of the close proximity of the extension. There are no material considerations that justify approval of the application contrary to the provisions of the development plan.

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:

The proposed extension would, by virtue of its position, height and proximity to windows of the adjoining neighbouring property, have an unacceptable impact on the amenity enjoyed by the occupants of that property through overshadowing and overbearing impacts that would be created. These impacts would be to an unacceptable level and the proposal is therefore contrary to Policy S6 and SC15 of the Angus Local Plan Review (2009) and Advice Note 19. There are no material considerations present that would justify setting the provisions of these development plan policies aside.

Notes:

Case Officer: Pauline Chalmers
Date: 28 July 2016

Appendix 1

Development Plan Policies

Angus Local Plan Review 2009

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.
- (I) 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 SC15: House Extensions

Development proposals for extensions to existing dwellings will be permitted except where the extension would:

- * adversely affect the appearance and character of the dwelling and/or the surrounding area. Alterations and extensions should respect the design, massing, proportions, materials and general visual appearance of the area;
- * have a significant and unacceptable detrimental effect on the residential amenity enjoyed by adjoining households;
- * reduce the provision of private garden ground to an unacceptable level;
- * result in inadequate off-street parking provision and/or access to the property.

TAYplan Strategic Development plan

The proposal is not of strategic significance and these polices are not referred to in this report.

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.

Extract from Angus Local Plan Review (Policy S6 & Schedule 1, pages 14 & 15)

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).

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- 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
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- 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

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

Supporting Information

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House Extensions

2.40 The extension of houses to provide additional accommodation is one of the most common forms of development. Badly designed or inappropriate extensions can spoil the external appearance of buildings and can have a negative impact on the surrounding area. 2.41 Planning legislation provides guidelines within which proposals for extensions to property are considered. Angus Council have a duty to consider the wider environmental impacts of development, protect the character and appearance of towns and villages, and take account of the potential impacts on neighbours. Specific guidance on extensions to listed buildings is set out in Policy ER15. 2.42 Further detailed guidance on extensions to houses is contained in Angus Council's Advice Notes 3: Roofspace Extensions, 15: Front Extensions, and 19: House Extensions.

Policy SC15: House Extensions

Development proposals for extensions to existing dwellings will be permitted except where the extension would:

- adversely affect the appearance and character of the dwelling and/or the surrounding area. Alterations and extensions should respect the design, massing, proportions, materials and general visual appearance of the area;
- have a significant and unacceptable detrimental effect on the residential amenity enjoyed by adjoining households:
- reduce the provision of private garden ground to an unacceptable level;
- result in inadequate off-street parking provision and/or access to the property.

etention of an existing hedge) will be required if a planning consent is be forthcoming. Provision of a wall or fence will not resolve a problem caused by windows on a two storey extension within four metres of a boundary. In these circumstances other solutions will have to be sought e.g. opaque glass, roof lights, re-siting of windows etc.

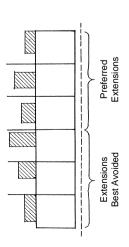
Again a condition will be imposed on the planning consent requiring the applicant to erect and retain the wall or fence or in the case of an existing hedge, to retain it at a height of at least two metres or thereabouts

cause of friction between neighbours due to the serious overlooking problems and loss of privacy for permitted at first floor level or above where they do not cause an overlooking problem and loss of privacy. Such approvals are likely adjacent dwellings and gardens. Accordingly balconies will only be Balconies - Are a particular

SUNLIGHT/DAYLIGHT

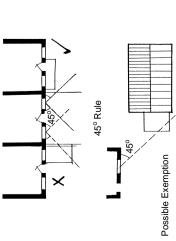
sunlight to garden ground will not be accepted as sufficient grounds The perceived loss of sunlight and daylight to a neighbouring property by a proposed extension, can be a major source of should be made to avoid or minimise the potential for loss of light to to justify refusing planning consent but loss of light to a window sunlight and daylight protection where detached houses are objection and distress. It is important, therefore, that every effort a neighbour when drawing up the plans for any extension. Loss of might be. The distances specified above should provide sufficient

Letween the wall of an extension and any window in the geighbour's property. Two metres may not seem a lot to an 2. probably occurs in terraced or semi-detached housing situations should be to keep your extension as far from boundaries as and it is here that most care needs to be taken. The first objective The most significant problem of sunlight or daylight loss however,



high wall or even an extension closer and without the necessity to obtain planning permission, this distance is seen as a reasonable compromise. A general rule of thumb guideline is that extensions objecting neighbour but as it is often possible to erect a two metre be at least as far off the boundary as it extends out from the house

majority of circumstances, the Council will expect any extensions to However, as this is unlikely to be achievable in perhaps the comply with the 45° rule. The 45° Rule - This involves drawing a line from the mid-point of the sill of a window to a habitable room or kitchen which is potentially affected by a neighbour's extension, at an angle of 45° towards the



be acceptable. While there will be few grounds for exemption from the extension. If the proposed extension crosses that line it is unlikely to Rule where semi-detached or terraced houses are involved, where an extension is sited well forward of the affected window, this would allow more light to reach it, therefore allowing for the 45° Rule to be relaxed a little. It could speed up the processing of your application if sufficient details are provided with your submitted plans for the above calculation to be made. In particular you should illustrate the location of any windows on adjoining properties.

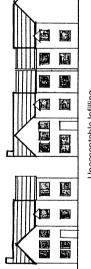
SIDE EXTENSIONS

On any elevation of a house exposed to public view, an extension should always have a pitched roof, this is particularly relevant to side extensions.

where the neighbour has indicated, in writing, that they have no There are also a number of other problems associated with side extensions. Whilst there is no legislation disallowing the building of an extension onto a boundary, for ease of access to rear garden ground and to provide room for maintenance of the extension, a minimum gap of one metre will be required. This will also eliminate the possibility of any part of the extension overhanging your neighbour's property (e.g. rhones), which is a common source of friction between neighbours. This requirement may be relaxed where the extension is especially dominant or long, a distance of objection to the extension being built on the boundary. However, more than one metre may be sought.

TWO STOREY EXTENSIONS

Because of their size and visual dominance, two storey extensions can present a range of additional problems, are more likely to attract objections from concerned neighbours and will be more stringently considered by the Planning Authority before being granted a consent. The various distances specified storey extensions, indeed more demanding standards may be elsewhere in this Advice Note are unlikely to be relaxed for tworequired. The additional problems of scale and overlooking created by two storey extensions have already been covered but in addition, where side extensions are proposed, it will be essential to maintain the character of an area by not filling the gaps between rows of two an unbroken terrace. In dealing with such applications, the Council storey houses which would otherwise produce the appearance of



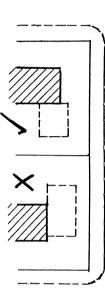
Unacceptable Infilling

will consider the impact, not only of the proposal, but also the effect should the neighbour also wish a similar side extension. If the Council believes a reasonable gap will not be maintained, an An extension set well back from building line or frontage of the house is likely to be more successful than one aligned with the frontage of the house application is likely to be refused.

Because of their scale and visual prominence, a pitched roof will always be required on a two storey extension.

CORNER PLOTS

Extensions on the road frontage of a corner plot require particularly careful handling if they are to be successful and attract a planning approval. It is very easy to produce an extension that not only dominates the house but the junction and immediate neighbourhood also.



acceptable where the scale is sub-servient to the original, involves Extensions to properties on normal sized corner plots should ideally be to the rear, side extensions are only likely to be a relatively small floor area and remains a respectful distance from

LOSS OF GARDEN GROUND

place, that the general ratio of buildings to open space that exists Almost all applications to extend a house results in a reduction in available garden ground. The over-riding consideration of the Council will be to ensure that over-development does not take within the area is maintained. As a general guide, however, 100 square metres of usable and private (to the rear) amenity ground should be available for family use. In areas that are densely built-up, a lesser area may be usable, private space remains available after the erection of a acceptable as long as at least 50 square metres of genuinely proposed extension.

LOSS OF PARKING FACILITY

Where approval of a planning application will entail the loss of the sole space for off-street parking, with no viable alternative being available, consent will not be forthcoming.

LOSS OF VIEW

consideration in determining the application. Nevertheless, in the interests of good neighbourliness, applicants are recommended to householder has a right to a view and therefore, objections based on loss of view will not be regarded as a material consider the impact of their proposal on the views of neighbours.

precedent. In other words, should they apply, your neighbours are You should bear in mind when designing your extension, particularly the positioning of windows, that you will be setting a likely to be granted consent for similar.

BUILDING REGULATIONS

It is probable that a Building Warrant will be required for an extension and any potential applicants are advised to consult with the Building Control Unit of the Planning & Transport Department.

Angus Council



ADVICE NOTE 19

EXTENSIONS HOUSE

For further information and advice contact:

Planning & Transport Angus Council

AC3

Market Street

Telephone 01307 461460

County Buildings

INTRODUCTION

when they wish to extend their home or as a neighbour to someone else extending theirs. This Advice Note endeavours to convey to householders contemplating an extension to their home, what the requirements of the Planning Authority are in order to secure Most householders involvement with the planning planning approval. The Advice Note cannot cover all possible situations or solutions but sets out the general principles which Angus Council consider important when assessing proposals for house extensions, the overall objectives of which are:-

- (i) the retention of the existing character of an area;
- allowing a reasonable freedom of choice for owners; and €
- protection of the amenity of neighbours. \equiv

extension is on the front of the building, you should refer to Advice Because of the differing considerations, if you are considering an extension within the roofspace (e.g. involving dormers) you should refer to Advice Note 3 "Roofspace Extensions", or if your proposed Note 15 "Front Extensions". This Advice Note covers all other situations, including conservatories.

accommodation is essential, you may not be able to achieve it It is worth bearing in mind that some houses were never designed to be extended at all or have already been extended to their limit. In such circumstances, if additional in your present house.

PERMITTED DEVELOPMENT RIGHTS

Not all house extensions require planning permission, the Town & Order 1992 conveys certain rights on property owners to build Country Planning (General Permitted Development) (Scotland) extensions without the necessity to obtain planning permission. **4**nown as "permitted development".

Accordingly, you are advised to seek guidance from the Planning & Pransport Department before progressing your plans too far.

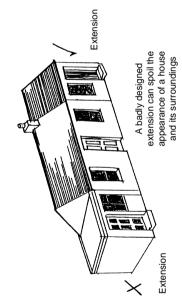
Sympathetic consideration will be accorded to extensions that only just fail to fall within the ambit of "permitted development" but dependent on the circumstances, the Planning Authority does reserve the right to require such proposals to fully conform with the guidance contained in this Advice Note.

GENERAL ADVICE

someone trained and experienced in designing buildings - a Incorporation of Architects in Scotland (RIAS) can give you a list of designed extension can make it difficult to sell. The Royal It is recommended that you seek professional advice from well designed extension can enhance your property, a poorly local architects (the list can be viewed at the Planning Office) or you can find them in the Yellow Pages.

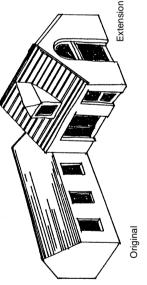
design of house extensions needs advice as early as possible - you Irrespective of whether or not you engage a professional agent, the are therefore advised to contact one of our Development Control Officers to discuss your proposals well before submitting an application. There may be more than one way of providing the extra space you desire and a consultation with the officer will reveal which is the most acceptable or in the case of unacceptable designs, perhaps how they may be made acceptable. Sketch plans prepared in advance can be helpful in comparing different schemes. Good design need not cost more, but even if there is an increase in the initial cost, in the longer term there may be benefits from reduced maintenance costs, e.g. pitched roofs cost less to maintain Many people want to extend their homes in different ways: if everyone did exactly as they wanted, problems could be caused for others living close by, or the whole appearance of the area might be spoiled.

Extensions should not over-dominate the existing house or be designed merely to fit a required amount of accommodation. They should normally be sympathetic in style to the original building, although this general principle may be discarded if an architectural solution of exceptional quality is proposed. It should also be recognised that traditional and modern buildings may need to be treated in different ways.



SCALE

As a general rule the Planning Authority will not look favourably on extensions which dominate the existing house, i.e. the bulk of the extension overwhelms the original house and drastically changes its character or the character of the area. The scale of any proposed



Over Dominant Extension

extension should respect and be sub-servient to the existing building.

Extensions not exceeding 50% of the original ground floor area of the existing building are most likely to find favour with the Planning Authority, while extensions of more than 100% will rarely be approved. Extensions in excess of 50% are most likely to receive approval where the current accommodation is extremely restricted (e.g. but 'n ben), where the extension is not seen from any public area, where the area comprises modern houses of a mixed scale or where a unique architectural design solution is proposed. In all cases the extent of the property curtilage and especially the amount of amenity space remaining after extending, will be a determining factor.

The roof of a building often plays the most important part in its overall appearance. Extensions which copy the roof type and angle of pitch of the original are usually more successful than those that introduce a completely different type of roof. The latter nearly always appear as an obvious addition tacked onto a house. The roofing material of any pitched roof extension should match that of the original. Flat roofed extensions are not generally encouraged but may be acceptable where, for instance, they are not visually prominent.

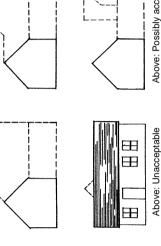


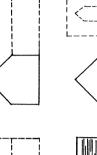
Some Unacceptable Roof Extensions

As a general rule the height of an extension should not exceed the existing ridge height of the house.

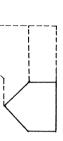
Again, an original architectural design may produce an acceptable solution to this general restriction.

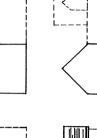
modern standards or regulations, a solution may be achieved by For a rear extension where additional height is necessary to meet providing a low-roofed/flat-roofed link, however, it will be necessary















Above: Possibly acceptable

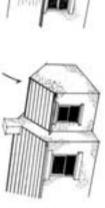
to demonstrate (e.g. by perspective sketches) that the roof of the extension is not readily viewed above the roofline of the original

A full two storey extension onto a single storey dwelling is unlikely to be acceptable under any circumstances.

MATERIALS

building. In cases such as this, it may be acceptable to use a match the existing property. This can be straightforward with modern buildings but not always possible with an older stone traditional wet harl or dry dash finish coloured to match the stone as closely as possible. A design justification statement would be required for the Planning Authority to even consider the use of Materials used for external finishes should, as far as possible,

The diagrams below show the good use of materials in an





extension and poor use. The good example incorporates a joints between old and new where side extensions are involved and technique that is highly recommended and helps to conceal the that is a slight set back from the house front.

PRIVACY AND OVERLOOKING

service, neighbours are entitled to expect some consideration to be While successive Governments have confirmed that the Planning Regulations are not in place to provide a neighbour protection given to their privacy when an adjacent property extends. The "Permitted Development" rights mentioned above make it impossible for total privacy to be assured and except in the most isolated rural location, few householders can claim not to be overlooked to some degree. The guidance that follows, therefore, is intended to provide for the maintenance of a degree of privacy without becoming unduly restrictive on persons wishing to extend

Window to Window Privacy - The following guideline MINIMUM distances between windows on a proposed extension and existing windows on a neighbouring house should be observed. These distances should ensure a reasonable degree of amenity and privacy

townscape reasons e.g. out of character with the surrounding area, the presence of trees, etc. and conversely, in higher density, areas, it may even be possible to reduce some of the distances. The distances can but there may be instances where they may not be acceptable for also be reduced when the windows are at an angle to each other.

20 metres Main Living Room Window to:-Main Living Room Window

Other Habitable Deem Window	15 motros
Offici Habitable Nooill William	כבוום
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

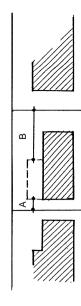
4 metres 4 metres 2 metres Non-Habitable Room Window to:-Non-Habitable Room Window Blank Wall to Blank Wall Blank Wall

Definitions: In this context habitable room includes kitchen.

The initial objective of the architect or designer in producing the careful siting of windows or, in appropriate circumstances, the use of obscure glass, high-level windows or velux windows. In dealing with planning applications, the Council will also pursue these extension plans should be to avoid conflict with the guidance by options where the 'rules' are infringed. Should all other options not provide a solution, the provision of a two metre high wall or fence between the problem windows may be be imposed on the planning consent requiring the applicant to erect and/or retain the wall or fence. An existing hedge will also be be imposed to ensure its retention. This solution may not be or where the extension would be too visually intrusive on the existing acceptable as a solution for single storey extensions. A condition will acceptable if at or near two metres in height and again a condition will appropriate in all circumstances, for instance where ground levels vary house, especially if it is the front of the existing house that is affected

ō fence to be erected, an approach to the Council from that source to ₽ any case if the neighbour's window is less than two metres from the proposed wall or fence, the provision of such a structure will not be acceptable and unless an alternative solution can be found, the for some reason the affected neighbour does not wish a wall have the condition removed is likely to be positively received. application to extend is likely to be unacceptable Where two-storey extensions are involved the option of a two metre high wall or fence to allow a reduction in these distances is unlikely

Development" rights often increase it even more. Accordingly, it would not be appropriate for such a degree of protection to be accorded to Garden Overlooking - As previously suggested, it is a rare garden that is not currently subject to a degree of overlooking and "Permitted garden overlooking as to make it difficult for property to be extended. The initial objective should again be to avoid the situation arising by careful placement of windows etc. Where there is no obvious means of avoiding overlooking from extension windows and the window(s) are within one to four metres of the boundary, the provision of a two metre high wall or fence (or



AC3

A: Less than 4 metres - 2 metre high fence required

B: More than 4 metres - no fence required

AC4

ANGUS COUNCIL

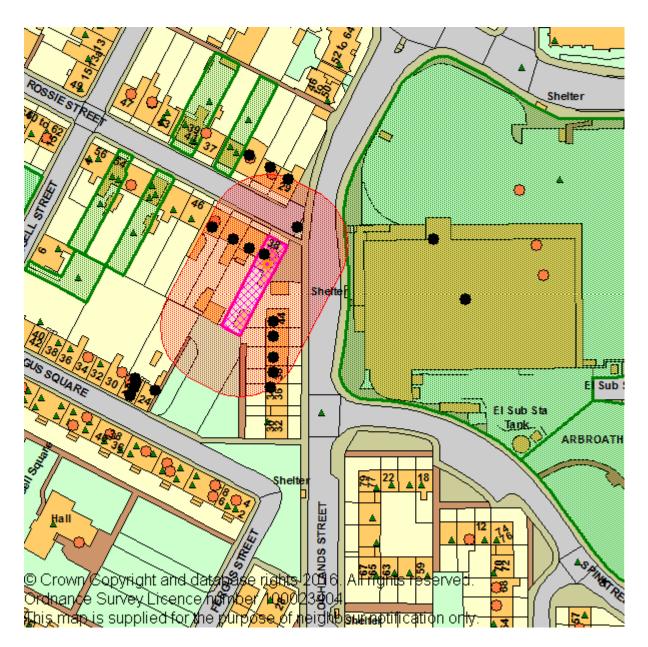
COMMUNITIES PLANNING

CONSULTATION SHEET

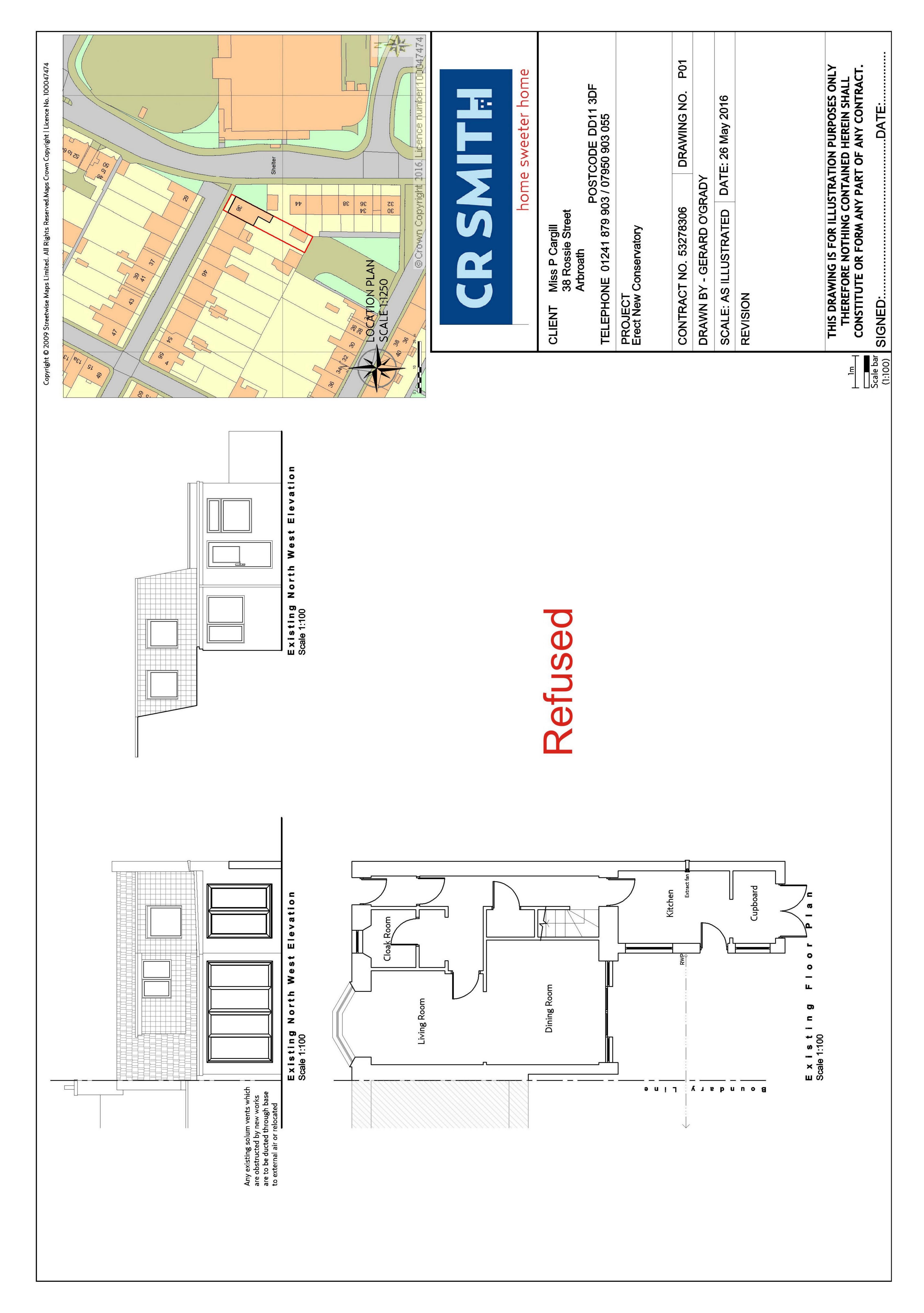
	PLANNING APPLI	CATION NO	16/00422/FULL
	Tick boxes as app	<u>oropriate</u>	
ROADS	No Objection	✓	
	Interest	(Com	nments to follow within 14
	Date 10	06 16	

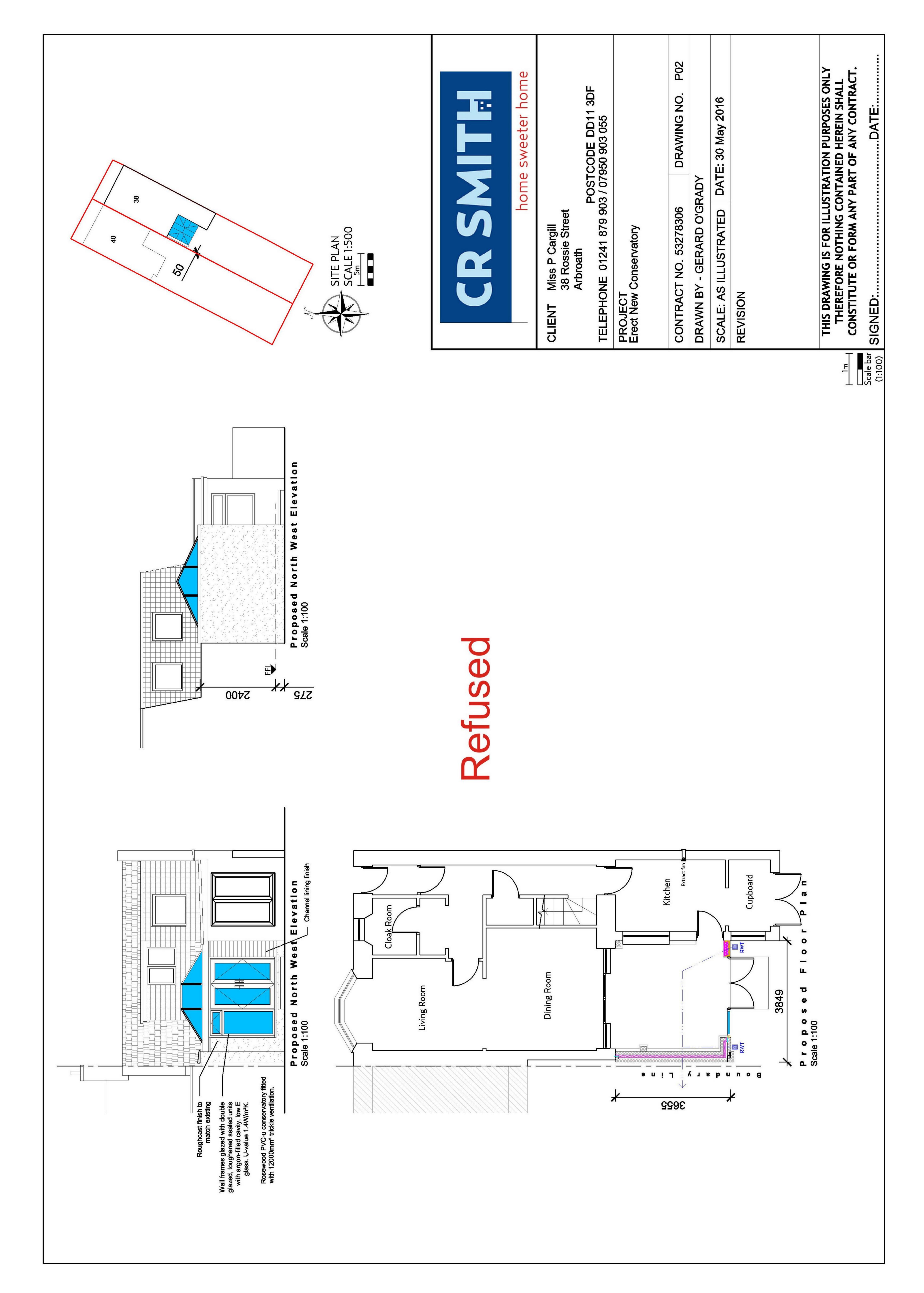
PLEASE DO NOT TAKE AWAY THE LAST SET OF PLANS WHERE POSSIBLE COPIES WILL BE PROVIDED ON REQUEST

ELECTRONIC SUBMISSION DRAWINGS TO BE VIEWED VIA IDOX







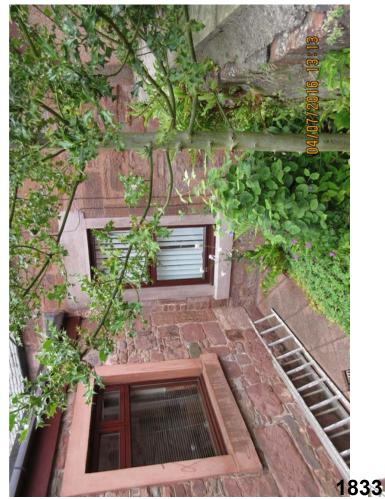


1831







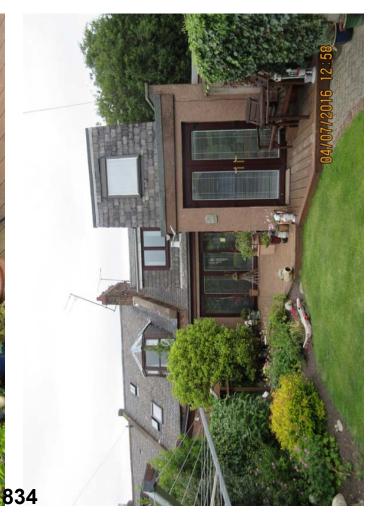
















ANGUS COUNCIL

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



PLANNING PERMISSION REFUSAL REFERENCE: 16/00422/FULL

To Miss P Cargill
c/o CR Smith
FAO Gerard O'Grady
Gardeners Street
Dunfermline
Scotland
KY12 ORN

With reference to your application dated 6 June 2016 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Erection of a New Conservatory at 38 Rossie Street Arbroath DD11 3DF for Miss P Cargill

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

The reasons for the Council's decision are:-

The proposed extension would, by virtue of its position, height and proximity to windows of the adjoining neighbouring property, have an unacceptable impact on the amenity enjoyed by the occupants of that property through overshadowing and overbearing impacts that would be created. These impacts would be to an unacceptable level and the proposal is therefore contrary to Policy S6 and SC15 of the Angus Local Plan Review (2009) and Advice Note 19. There are no material considerations present that would justify setting the provisions of these development plan policies aside.

Amendments:

The application has not been subject of variation.

Dated this 4 August 2016

Kate Cowey - Service Manager Angus Council Communities Planning County Buildings Market Street FORFAR DD8 3LG

Sent:15 Jul 2016 11:04:33 +0100 To:'gerard.ogrady@crsmith.co.uk' Subject:38 Rossie Street, Arbroath 16/00422/FULL
UPRN: 000117063909
Our Ref: 16/00422/FULL
Your Ref:
15 July 2016

From:ChalmersPE

Dear Sir

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997(AS AMENDED)

38 ROSSIE STREET, ARBROATH, DD11 3DF

APPLICATION REFERENCE - 16/00422/FULL

I am writing in connection with the proposed conservatory at 38 Rossie Street. I previously advised that I had concerns regarding the projection of the conservatory in relation to the windows of the adjoining property. I have assessed it further and can confirm the extension would breach the 45 degree rule as indicated in Advice Note 19. Specifically, it is felt that the conservatory projecting 3.6 metres along the boundary would add to the existing extension on this boundary, creating a combined extension of 6.5 metres long which would create a tunnel effect between the properties that would create overbearing and overshadowing of the sitting room and kitchen windows of the adjoining neighbour. The recommended distance is 10 metres between the blank wall of the extension and the kitchen (other habitable room) window as indicated in Advice Note 19, therefore the resulting distance would fall short of this guideline. Furthermore, the British Research Establishment (bre) has guidelines for daylight and sunlight, the name of it is Site Layout Planning for Daylight and Sunlight- a guide to good practice. This guidance is comprehensive and it also indicates that the extension would create a detrimental impact on the adjoining neighbour.

It is noted there are a number of extensions on this property and other properties within this row; I generally have no major issue with an extension such as this that cannot really be seen by anyone else from the public realm or most of the neighbouring houses. Nevertheless, there is a point where a house has been extended to its maximum and it is believed that this property may not be able to be extended any further in terms of its architectural appearance and without compromising the residential amenity of the adjoining neighbour.

I fully appreciate the desire to extend the dwelling but with the above in mind, it would be unlikely that I would support the proposed extension as extending in this way would not agree with the provisions of Advice Note 19: House Extensions and Policy SC15: House Extensions of The Angus Local Plan Review. I would ask that you withdraw this proposal; otherwise, it would be my intention to refuse it after 10 days of the date of this email.

I trust this clarifies the situation

Yours faithfully.

Pauline Chalmers: Development Standards Technician: Angus Council: Communities: Planning & Place: County Buildings: Market Street: Forfar: DD8 3LG: 01307 47(3206)



Grounds of Appeal

On behalf of

Miss Cargill

Proposed Conservatory at 38 Rossie Street,
Arbroath,
Dd11 3DF

Planning ref - 16/00422/FULL

Date of refusal – 4th August 2016

Applicants Property & Proposals

The following is to be read in support of our appeal against the decision to refuse planning consent to build a new white uPVC conservatory at *38 Rossie Street*, *Arbroath*, *DD11 3DF*

Grounds of Appeal

The refusal states that the proposed conservatory would have an unacceptable impact on the neighbouring property through overshadowing. Currently the boundary wall is 1820mm high. This projects all the way from our customer's property to the boundary line /garage at the south end of the garden. The fire wall on our conservatory will be 2500mm high, and built behind this existing boundary wall. The glass roof then slopes away at an angle of 25°. This additional height would be of little significance when taking in to account the boundary wall already in place. As well as this, on the boundary, there are two large trees, one on our customer's property and one on the neighbouring property. These currently stand approximately 4600mm tall and are full with leaves all year round. These create more overshadowing than that of our proposal. Having also spoken with the neighbours at 40 Rossie Street, and outlined clearly our proposal, they have no objections to what we are looking to build.

Conclusion

In conclusion the proposal will not have any impact on the neighbouring property, as the conservatory will hide behind the existing boundary wall and trees. In addition to this the neighbours at 40 Rossie Street have no objection to our conservatory nor do they have any issue with the fire wall's proximity to the boundary. We feel planning permission should not have been refused and therefore seek to appeal the decision of the Planning Department

APPENDIX 2

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE APPLICATION FOR REVIEW

ERECTION OF A CONSERVATORY AT 38 ROSSIE STREET, ARBROATH

APPLICATION NO 16/00422/FULL

APPLICANT'S SUBMISSION

ITEM 1 Notice of Review

ITEM 2 Appeal Statement

ITEM 3 Drawings x 2



County Buildings Market Street Forfar DD8 3LG Tel: 01307 461 460 Fax: 01307 461 895 Email: plnprocessing@angus.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE

100014239-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

your form to variable a. I reade quote this reference if you need to contact the planning reactionty about this application.						
Applicant or Agent Details						
Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application) Applicant Applicant						
Agent Details						
Please enter Agent details						
Company/Organisation:	CR Smith					
Ref. Number:		You must enter a Building Name or Number, or both: *				
First Name: *	Gerard	Building Name:	CR Smith			
Last Name: *	O'Grady	Building Number:				
Telephone Number: *	01383 732 181	Address 1 (Street): *	Gardeners Street			
Extension Number:		Address 2:				
Mobile Number:		Town/City: *	Dunfermline			
Fax Number:		Country: *	Scotland			
		Postcode: *	KY12 0RN			
Email Address: *	gerard.ogrady@crsmith.co.uk					
Is the applicant an individual or an organisation/corporate entity? *						
☑ Individual ☐ Organisation/Corporate entity						

Applicant Details					
Please enter Applicant of	details				
Title:	Miss	You must enter a Bu	uilding Name or Number, or both: *		
Other Title:		Building Name:			
First Name: *	Р	Building Number:	38		
Last Name: *	Cargill	Address 1 (Street): *	Rossies Street		
Company/Organisation		Address 2:			
Telephone Number: *		Town/City: *	Arbroath		
Extension Number:		Country: *	Scotland		
Mobile Number:		Postcode: *	DD11 3DF		
Fax Number:					
Email Address: *					
Site Address Details					
Planning Authority:	Angus Council				
Full postal address of th	e site (including postcode where available	e):			
Address 1:	38 ROSSIE STREET				
Address 2:					
Address 3:					
Address 4:					
Address 5:					
Town/City/Settlement:	ARBROATH				
Post Code:	DD11 3DF				
Please identify/describe the location of the site or sites					
Northing	741315	Easting	363653		

Description of Proposal
Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: * (Max 500 characters)
Erect New Conservatory
Type of Application
What type of application did you submit to the planning authority? *
Application for planning permission (including householder application but excluding application to work minerals).
Application for planning permission in principle.
Further application.
Application for approval of matters specified in conditions.
What does your review relate to? *
□ Refusal Notice.
Grant of permission with Conditions imposed.
No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.
Statement of reasons for seeking review
You must state in full, why you are a seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)
Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.
You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.
We do not believe the proposal will have an overshadowing affect on the neighbouring property
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *
If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)					
16/00422/FULL					
26/05/2016					
03/08/2016					
The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.					
Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. * Yes X No					
Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.					
	_				
Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)					
In order to fully grasp the proposal and the existing property, I feel a site inspection would be imperative.					
inspect the site, in your op	inion:				
Can the site be clearly seen from a road or 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. (Max 500 characters)					
The Local Review Body will need to gain acces to the property as there are high boundary walls surrounding the property.					
	16/00422/FULL 26/05/2016 03/08/2016 and may at any time during ermine the review. Further of one or more hearing sent information provided by yession, site inspection. * ate for the handling of your enactors set out in your state and be imperative.				

Checklist – Application for Notice of Review					
Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.					
Have you provided the name	and address of the applicant?. *	X Yes ☐ No			
Have you provided the date a review? *	and reference number of the application which is the subject of this	☑ Yes ☐ No			
, , , , ,	n behalf of the applicant, have you provided details of your name nether any notice or correspondence required in connection with the or the applicant? *	X Yes ☐ No ☐ N/A			
Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *		X Yes □ No			
Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.					
Please attach a copy of all do (e.g. plans and Drawings) wh	☑ Yes ☐ No				
Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.					
Declare – Notice of Review					
I/We the applicant/agent certify that this is an application for review on the grounds stated.					
Declaration Name:	Mr Gerard O'Grady				
Declaration Date:	04/08/2016				



Grounds of Appeal

On behalf of

Miss Cargill

Proposed Conservatory at 38 Rossie Street,
Arbroath,
Dd11 3DF

Planning ref - 16/00422/FULL

Date of refusal – 4th August 2016

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ITEM 3

