

**ANGUS COUNCIL**

**DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 3 NOVEMBER 2015**

**LAND TO THE REAR OF NORDON, SHIELHILL ROAD, KIRRIEMUIR**

**REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES**

**ABSTRACT:**

The Committee is asked to consider an application for a Review of the decision taken by the Planning Authority in respect of the refusal of planning permission for the erection of dwellinghouse and double garage (re-application), application No. 14/00670/FULL at Land to the Rear of Nordon, Shielhill Road, Kirriemuir.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

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

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

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

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

**3. CURRENT POSITION**

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

**4. FINANCIAL IMPLICATIONS**

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

**5. CONSULTATION**

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

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

**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 3 – Further Lodged Representations

## ANGUS COUNCIL'S SUBMISSION FOR DMRC-12-15 IN RESPECT OF REFUSAL OF

APPLICATION NUMBER – 14/00670/FULL

APPLICANT - MR DAVID CATTANACH

PROPOSAL & ADDRESS – ERECTION OF DWELLINGHOUSE AND DOUBLE GARAGE (RE-APPLICATION) AT LAND TO REAR OF NORDON, SHIELHILL ROAD, KIRRIEMUIR

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**Angus Council**

<b>Application Number:</b>	14/00670/FULL
<b>Description of Development:</b>	Erection of dwellinghouse and double garage (re-application)
<b>Site Address:</b>	Land To Rear Of Nordon Shielhill Road Kirriemuir
<b>Grid Ref:</b>	338651 : 755168
<b>Applicant Name:</b>	Mr David Cattanach

**Report of Handling****Site Description**

The application site is located in the Northmuir area of Kirriemuir. The site measures approximately 656sqm with an existing vehicular access from Shielhill Road from the south. The site is currently overgrown and includes the remains of a double garage. The site is backland and is surrounded by modern single and 1.5 storey dwellinghouses to the north, west and south with a traditional two-storey dwellinghouse to the east. Along the northern boundary and parts of the western boundary of the site there is hedging and trees, with a low block wall to the south and high stone wall along the eastern boundary of the site.

**Proposal**

The application proposes a suburban style single-storey 3-bedroom dwellinghouse with integral double garage. The proposed house is U shaped and oriented towards the west with windows proposed on the north (obscure glass), south, east and west elevations of the building. This proposed dwellinghouse would be finished in roughcast and facing brick walls and slate-grey coloured roof tiles. The plans indicated that the existing double garage would be removed and existing access to the site would be used. A new 1.8m high timber fence is proposed along the north, south and west boundaries of the plot.

This applicant has submitted an amended Site Plan to reflect the stone boundary wall along the eastern boundary of the site deleted from the application site (Plan of 8.12.14 replaces that of July 2014).

**Publicity**

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 24 October 2014 for the following reasons:

- Contrary to Development Plan

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

**Planning History**

07/00147/OUT for Outline Consent for Erection of Dwellinghouse was determined as "Approved subject to conditions" on 13 July 2007.

12/00154/FULL for Erection of Dwellinghouse & Replacement Garage was determined as "Application Withdrawn" on 16 April 2012.

12/00427/PPPL for Planning Permission in Principle for Erection of a Dwellinghouse was determined as

"Approved subject to conditions" on 16 August 2012.  
14/00404/MSCSL for Erection of dwellinghouse and double garage was determined as "Application Withdrawn" on 24 June 2014.

## **Applicant's Case**

The applicant has submitted a letter of support for the proposal. This letter has responded to concerns raised as follows;

- a) Size of House - The advice given in Advice Note 14 is only "advice" with the potential for plot ratio to be increased in certain circumstances. In this case, the footprint of surrounding dwellinghouses generally feature as a high proportion of their respective plots. The intended house has already been reduced in footprint from the previously withdrawn application;
- b) Margins around Dwellinghouse - The proposed dwelling will not adversely affect residential development by loss of daylight or overshadowing. Regarding any affect for residents of dwelling to the north, it is considered that their residential amenity will be improved by the removal of Leylandii hedging, removal of garage and erection of more acceptable fence.

In conclusion, the applicant states this will be a family home to permit them to remain in Kirriemuir where they are from.

## **Consultations**

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

**Angus Council - Roads** - This consultee has raised no objections to the proposals.

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

**Angus Council Environmental Health** - This consultee has objected to due to the positioning and height of the proposed flue and the potential to create a smoke nuisance.

**Angus Council - Education** - There was no response from this consultee at the time of report preparation but it is understood that Websters High School is close to capacity.

## **Representations**

6 letters of representation were received, of which 0 offered comments which neither supported nor objected to the proposal, 6 objected to the proposal and 0 supported the proposal.

The main points of concern were as follows:

- Boundary wall not under the applicant's ownership and the owner should be notified by the applicant if this is part of the application;
- Inadequate details submitted on site levels;
- Adverse effect on existing residential amenity;
- Overdevelopment of the site;
- Contrary to development plan policy;
- Inadequate drainage capacity;
- Inaccurate plot size;
- Concerns over access for construction vehicles;
- Flooding caused by development;
- Impact on nesting birds;
- Human Rights Implications.

Three notifiable neighbours have written letters of representation, with two of these neighbours submitting

multiple letters of concern.

## **Development Plan Policies**

### **Angus Local Plan Review 2009**

Policy S1 : Development Boundaries  
Policy S3 : Design Quality  
Policy S6 : Development Principles (Schedule 1)  
Policy SC2 : Small Sites  
Policy Imp1: Developer Contributions

### **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 6 : Backland Housing Development  
Advice Note 14 : Small Housing Sites

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

### **Assessment**

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

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

In terms of Policy S1 of the local plan, the application site is located within the settlement of Kirriemuir and, as such S1(a) indicates that new development will generally be supported where they are in accordance with the relevant policies of the local plan.

Policy SC2 of the local plan deals specifically with proposals for small housing sites. Policy SC2 requires that new houses provide a satisfactory residential environment taking account of land use compatibility, plot size, provision of private amenity space of at least 100sqm and the maintenance of the residential amenity and privacy of adjoining houses. In terms of land use compatibility, surrounding land uses are residential and this would be a compatible use. The plot size exceeds 400sqm and the garden ground

provided would exceed 100sqm. I will return to consider the proposed house relative to the size of the plot later in this report.

The remaining test relates to the impact of the proposal on privacy and amenity of neighbouring dwellings. I do not consider the proposed house would have an unacceptable level of impact on privacy and amenity on property to the east, south and west. The proposed house would be located approximately 10m from the rear extension of Balnakeilly (to the east) which contains windows facing the site. Subject to an appropriate boundary enclosure, the impact on this property would not be unacceptable. Similarly, the proposed house would be around 13m from Nordon (south) and a similar distance from 1 Parkhill Place (south west) and I also consider that impacts on these properties could be mitigated by an acceptable boundary enclosure. 3 Parkhill Place (west) would remain around 14m from the proposed house and I am satisfied that the proposed house would not be unacceptably close to that property subject to agreed boundary enclosures. I note that objections have been received from the property to the east and south but as far as those objections relate to privacy and amenity I do not consider the impact on these properties to be so great as to justify refusal of planning permission subject to improved boundary enclosures.

However, the proposed house is significantly closer to 19 Parkhill Place which sits to the immediate north. The proposed house would be located just 2m from the mutual boundary with 19 Parkhill Place and the occupier of that property has objected to the proposal (citing impact on privacy and amenity amongst other things). The proposed house has one obscure glass bathroom window proposed on its north elevation and that elevation extends approximately 12m parallel to the northern boundary (and 2m from it). The plans suggest that the proposed house would be up to 3.3m from ground level to eaves and 6.1m to the ridge. 19 Parkhill Place has numerous habitable room windows along its south elevation and sits at a lower level than the proposed house. The south elevation of 19 Parkhill Place has as a projecting glazed conservatory which would be located less than 4m from the north elevation of the proposed house. The remaining windows on the south elevation of 19 Parkhill Place would be less than 8m from the north elevation of the proposed house. Advice Note 14 provides guidance on minimum window to window/window to blank wall distances and suggests a minimum distance of 12m between a main living room window and a blank wall; and a minimum distance of 10m between an 'other habitable room' and a blank wall (the north elevation of the proposed house has been assessed as a blank wall because the only window proposed would be a bathroom window finished in obscure glass). The proposed dwelling would be significantly closer to 19 Parkhill Place than Advice Note 14 promotes as a minimum acceptable distance and the proposed house would have an overbearing impact on the amenity of 19 Parkhill Place due to its size, close proximity to the existing house and its height. I note that the proposal includes the removal of trees along the northern site boundary and their replacement with a 1.8m high timber fence but I do not consider the provision of this fence would mitigate the issued caused by the size, proximity and height of the proposed house relative to 19 Parkhill Place. On that basis, I consider the proposal to fail Policy SC2 because it would not maintain the residential amenity and privacy of an adjacent house. The proposal also fails to be compatible with Advice Note 14 because it would not meet the minimum standards for separation between properties and their windows.

Advice Note 6 'Backland Housing development' indicates that 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. It states that 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. It states that development on backland sites should be sited in such a way as to minimise the loss of privacy, outlook and space for adjoining residents and that a reasonable degree of space must be maintained around and between the new house and those existing. For the reasons detailed above, I do not consider the proposed house would be compatible with the considerations detailed within this advice note. The proposed house would be too large in relation to its position close to 19 Parkhill Place and would undermine the amenity of that property.

When planning permission in principle was granted for a dwellinghouse on this site on 16 August 2012

(Ref. 12/00427/PPPL) the Report of Handling noted that 'although the site is surrounded by existing dwellinghouses, it is considered that it could accommodate a modest sized house (as displayed in indicative form on the submitted location plan) having regard to the guidance contained in Advice Notes 6 and 14' but the proposed house has not been designed with the constraints of the site sufficiently factored in. I note that a house has been constructed on a site approximately 40m to the south west of the application site known as New Cedars. It is understood that planning permission was granted for this site in 1996 (96/00904/FULL) and this example only serves to illustrate the limited level of amenity that is maintained where a house is allowed too close to existing housing. Advice Note 6 was introduced to try and prevent this form of development taking place in future and amenity and space standards have increased since this house was constructed.

Policy S3 encourages a high quality of design in all development proposals and requires consideration of development pattern; site layout and the relationship of new building with the character of the surrounding area; the use of materials, texture and colour; and the incorporation of key views in and out of the development. The site is located within a mixed character residential area. Houses primarily address the street but are located in a suburban mix of cul-de-sacs and roads. I do not consider this development in itself would have a significant impact on the character of the surrounding area. It would occupy a relatively large area of the useable plot at around 35% albeit I do not consider this issue on its own would justify refusal of planning permission.

In terms of Policy S6 and the accompanying Schedule 1: Development Principles, I have identified issues in respect of the impact of the proposed house on the amenity of existing property above (criterion 1). In addition to those amenity impacts it is noted that the applicant has proposed a flue in the north east roof slope. It is noted that the representation submitted has identified concerns regarding this. Environmental Health has objected to the proposal due to the positioning and height of the proposed flue and the potential to create a smoke nuisance. Were this issue the only issue for the proposal, further dialogue could have taken place to address the issues that could be realised by this. In terms of the remaining criteria, it is noted that the Roads Service is satisfied with the proposed access onto Shielhill Road. The application form indicates that the foul drainage would be connected to the public sewer and surface water to SUDS which would be acceptable. It is noted that concerns are raised regarding sewer capacity but a planning condition could be attached preventing the commencement of development until evidence is provided.

The application site lies within the school catchments for Northmuir Primary School (83.3%) and Webster's High School (81.7%), both of which are above 80% capacity. It is likely that the Education Service would have sought a financial contribution towards increasing the capacities of these schools under Policy Imp1 were the proposal otherwise acceptable.

The points of concern raised in the letters of representation are noted. Regarding the issues over a boundary wall not being in the applicant's ownership, the applicant has acknowledged this and submitted an amended site plan to indicate the eastern boundary wall deleted from the application site, and the applicant has also confirmed site ownership. Concerns regarding possible damage by construction traffic would be a civil issue between the affected parties. Regarding a possible adverse effect on nesting birds in trees to be removed, it is considered that planning conditions could be used to regulate the times during which works can take place to avoid the bird nesting season. Regarding the potential for flooding to adjacent residential property, the Roads Service was consulted on this issue and they have indicated no concerns over potential flooding provided a SUDS scheme was incorporated for the development. Site levels information could be requested by planning condition were the proposal otherwise acceptable. Regarding the alleged inaccurate plot size, I am satisfied that the proposal includes sufficiently accurate information on which to make a decision.

In conclusion, it is considered that the erection of this relatively large dwellinghouse on this modest-sized site would result in an adverse effect on existing residential amenity. The proposal is considered to be overdevelopment, with an excessive footprint for the dwellinghouse being in close proximity to the site boundaries which would result in a loss of privacy and amenity for existing residents around the site. The proposed dwellinghouse would therefore be contrary to development plan policy and there are no



material considerations that justify approval of the application.

## **Human Rights Implications**

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

## **Equalities Implications**

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

## **Decision**

The application is Refused

## **Reason(s) for Decision:**

1. That the proposed development is contrary to Policy S6 and the associated Schedule 1 Development Principles criteria (a) and Policy SC2 of the Angus Local Plan Review (2009) because the development would not maintain the privacy and amenity enjoyed by adjacent property at 19 Parkhill Place because of the proximity and scale of the proposed house relative to that property; and is contrary to Policy S6 and the associated Schedule 1 Development Principles criteria (a) because of the potential for smoke nuisance to neighbouring property as a result of the height and positioning of the flue relative to the proposed roof ridge level.

## **Notes:**

Case Officer: Neil Duthie  
Date: 24 June 2015

## **Appendix 1 - Development Plan Policies**

### **Angus Local Plan Review 2009**

#### Policy S1 : Development Boundaries

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

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

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

#### Policy S3 : Design Quality

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

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

Innovative and experimental designs will be encouraged in appropriate locations.

#### Policy S6 : Development Principles (Schedule 1)

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

#### Schedule 1 : Development Principles

##### Amenity

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

##### Roads/Parking/Access

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

##### Landscaping / Open Space / Biodiversity

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

##### Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will

be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.

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

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

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

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

#### Supporting Information

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

#### Policy SC2 : Small Sites

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

- \* compatibility with established and proposed land uses in the surrounding area;
- \* plot sizes compatible with those in the area;
- \* provision of at least 100m<sup>2</sup> private garden ground ; and
- \* maintenance of residential amenity and privacy of adjoining housing.

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

#### Policy Imp1 : Developer Contributions

Developer contributions will be required in appropriate circumstances towards the cost of public services, community facilities and infrastructure and the mitigation of adverse environmental impacts that would not have been necessary but for the development. Such contributions will be consistent with the scale and effect of the development and may relate to both on-site and off-site items that are required to produce an acceptable development in the public interest.

#### **TAYplan Strategic Development plan**

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

**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 100m<sup>2</sup> 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.*



## Resources and Developer Contributions

5.5 While Angus Council has published this Finalised Local Plan other agencies and developers will fund many of the development proposals and opportunities. This includes various aspects of infrastructure necessary to implement the Development Strategy. The Council will prepare supplementary guidance to provide an indication of the nature of public services, community facilities and infrastructure for which developer contributions may be anticipated on a settlement-by-settlement basis. The guidance will be revised as and when circumstances dictate.

5.6 A key consideration will be to secure sufficient resources from both the public and private sectors to ensure service and infrastructure provision. This includes encouraging the private sector to contribute towards the removal of infrastructure constraints in accordance with the Development Strategy through appropriate planning agreements taking account of opportunities for delivering planning gain.

5.7 New development has an important role in funding measures to mitigate any adverse impacts in a way that is consistent with the delivery of wider planning and environmental objectives. Indeed, in Angus, as elsewhere in Scotland, the bulk of the funding for infrastructure and facilities arising from major new greenfield housing developments will probably have to come from contributions by developers.

5.8 Circular 12/1996 advises that development plans should give guidance on the particular circumstances in which planning authorities will seek to use Section 75 Planning Agreements. Developer contributions will be sought where the impacts of a scheme warrant them. Such contributions should be designed to avoid a significant negative impact as a result of the development, and to ensure a high quality and properly serviced development. Contributions may be appropriate both on-site and off-site, depending on the nature of the prospective impact. In appropriate cases, Angus Council may take the joint impact of several related schemes into account. The provision of contributions will not make a fundamentally inappropriate scheme acceptable in planning terms. They are designed to apply to cases where there is a significant impact that is capable of mitigation to produce an acceptable scheme.

*Circular 12/1996: The Town and Country Planning (Scotland) Act 1972*

### Policy Imp1 : Developer Contributions

**Developer contributions will be required in appropriate circumstances towards the cost of public services, community facilities and infrastructure and the mitigation of adverse environmental impacts that would not have been necessary but for the development. Such contributions will be consistent with the scale and effect of the development and may relate to both on-site and off-site items that are required to produce an acceptable development in the public interest.**

*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

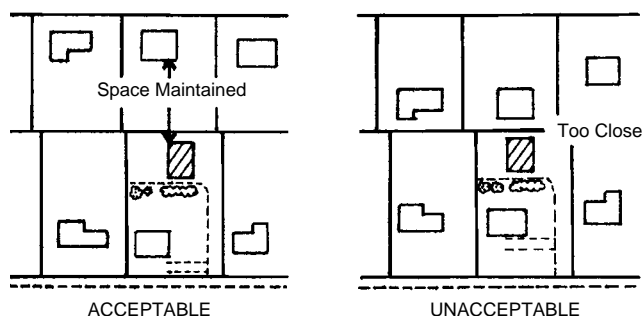
In the majority of backland development situations, adjacent properties will have enjoyed an open aspect knowing that, as a normal highway access would be impossible or unlikely, the aspect will remain more or less intact. In these circumstances, the erection of a house or houses in the previously open 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.

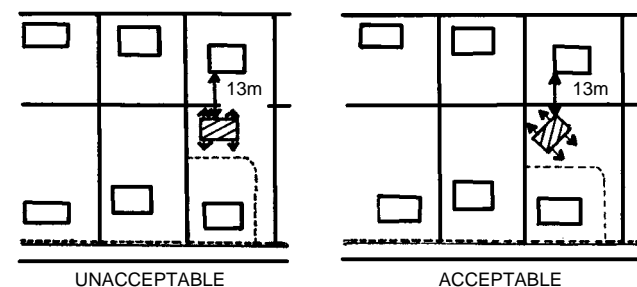
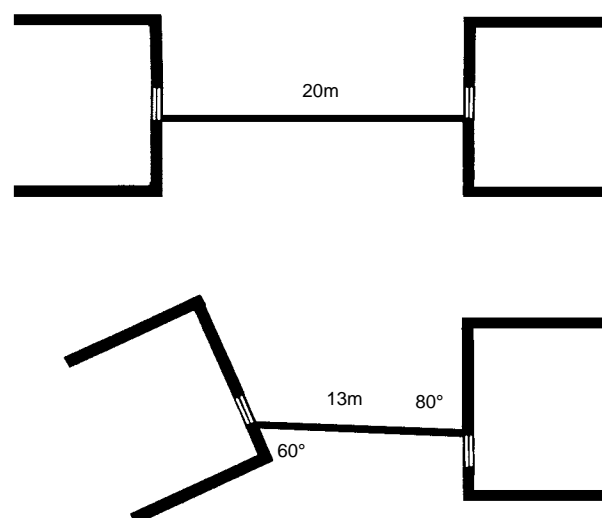
2. Development on backland sites should be sited in such a way as to minimise the loss of privacy, outlook and space for adjoining residents. A reasonable degree of space must be maintained around and between the new house and those existing.

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.

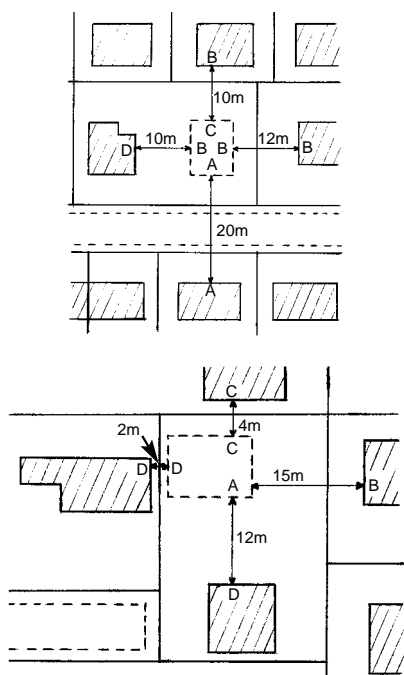
## DEVELOPMENT CONTROL PRACTICE

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.

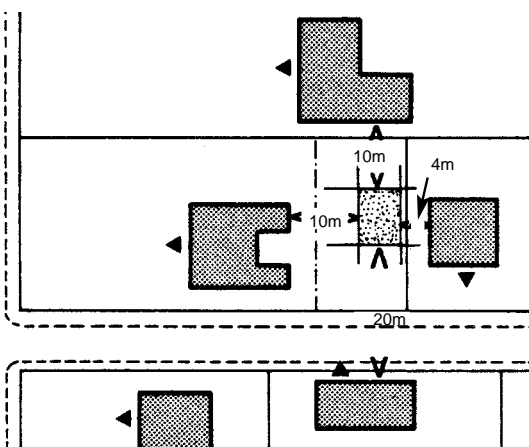
In the diagrams below, which illustrate the application of most of the above rules, the following notation has been used:-

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



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

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

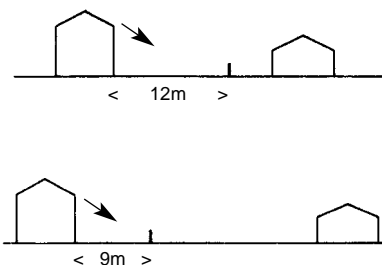


Building on a boundary will not be acceptable, at least a one metre gap must be provided to allow for maintenance etc. Exceptions might be made for lock-up garages where it is not practical to leave a gap.

Overlooking of private amenity space, particularly of existing houses should also be taken into consideration in designing the layout. As a general rule no window to a habitable room should be closer than four metres to a boundary. For first floor windows in two storey houses, significantly greater distances will be required (see below).

**Screening:** Most of the above distances can, if desired, be further alleviated on the part of the affected property, by the erection of screening and in certain circumstances this may be specified by the

Planning authority. Even with the erection of screen fences, distances should not be so reduced as to create an overly-cramped environment. For instance a two metre fence or wall erected closer than two metres to an existing neighbouring window, is unlikely to be acceptable as a means of overcoming a deficient window to window distance. Of course, screening cannot be effective where a second floor is concerned and this is the cause of much discontent amongst existing proprietors affected by such proposals. Accordingly, where a second and overlooking storey is involved, the distance between the main windows of the proposed house and the mutual boundary should be at least 12 metres. In higher density areas or where the adjacent rear garden is particularly generous this could be relaxed to a minimum of nine metres.



#### GARAGES

Too often garages are an afterthought in the design process. Problems can occur when endeavouring to fit the garage into a pre-developed site. Therefore, even if a garage is not to be built at the outset, the layout should allow for their later erection. For instance, 30% plot coverage should not be the objective of a new house with no garage accommodation; avoid a situation where the garage would have to be built on the boundary or, worse still, in front of the house.

On the subject of garages in front of houses, it is strongly recommended that this be avoided. Developments visually dominated by garages sited in front of the residential accommodation will rarely be acceptable.

#### ADDITIONAL NOTES

It is the intention of the District Council to implement this advice in a FLEXIBLE fashion. This, however, is likely to result in demands in excess of the minimum standards being more common than their relaxation. The guidance is not intended to produce a "planning by numbers" approach to housing layouts and even where the guideline figures have been attained, the planning authority reserves the right to insist on more stringent standards to, for instance, further mitigate the impact on neighbours or to produce a better quality development.

In designing a layout care should be taken not to prejudice future development in adjoining areas (for instance by building too close to boundaries or poor positioning of windows). In some instances this may not be possible but where this has occurred, the planning authority will not necessarily be tied to the guidance indicated in this Advice Note when dealing with future development proposals.

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

**Angus Council**



**ADVICE NOTE 14**

**SMALL  
HOUSING  
SITES**

*For further information and advice contact:*

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

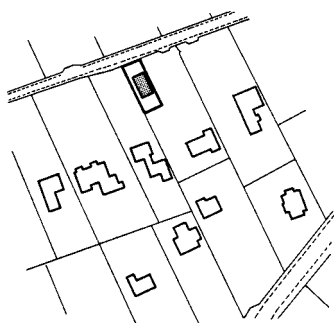
Telephone 01307 461460

**INTRODUCTION**

This Advice Note has been prepared to provide guidance for applicants, developers and their agents designing layouts for small housing sites (comprising between one and four detached houses) WITHIN EXISTING BUILT-UP AREAS. For houses in the open countryside refer to Schedule 1 in the Housing Section of the Angus Local Plan. Although much of the guidance is relevant to semi-detached, terraced, linked or special needs housing, the requirements, particularly in respect of plot sizes, amenity space, etc. will be interpreted flexibly. The Advice Note does not concern itself with the visual appearance of the individual houses. Compliance with this guidance will be required in order to secure a planning consent.

**PLOT SIZE**

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



As a general guide only, a MINIMUM plot area of 400 square metres is suggested. In areas of especially high density and where small plots are a characteristic or for some semi-detached houses, a lower MINIMUM of 350 square metres may be acceptable, dependent upon any unduly adverse effect that the proposal may have upon neighbours. Conversely, in low density areas, a minimum considerably in excess of 400 square metres will be required. 400 square metres will probably be too small to provide sufficiently useable garden space where awkward shaped sites are involved. Similarly, where existing trees have to be retained or new planting is required as part of a planning consent, a larger plot area will be necessary.

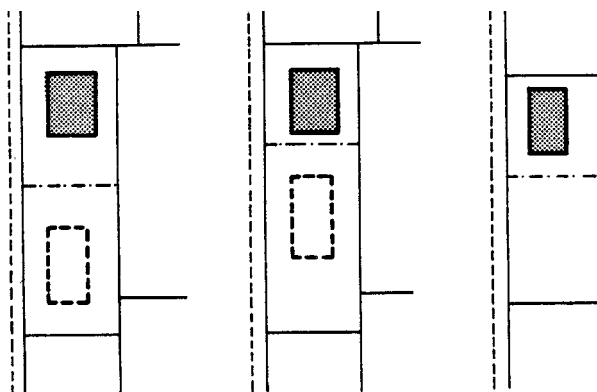


Regular shaped site of 1,200sm can accommodate 3 plots of 400sm, houses covering 30% of the plot and still provide at least 100sm of amenity space.

Awkard shaped site of 1,200sm. Fails to provide 100sm useable/private amenity space for each plot of 400sm.

This minimum plot area requirement will not only apply to the proposal but, where applicable (e.g. subdivision of an existing house plot), TO THE EXISTING HOUSE AND ITS CURTILAGE ALSO.

For clarification purposes, long driveways required to gain access to the plot proper or fingers of useless land will not count as part of the plot area.



Total Area = 820 s.m. Acceptable Sub-Division

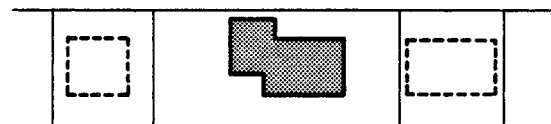
Total Area 820 s.m. Unacceptable Sub-Division

Total Area = 750 s.m. Incapable of Meeting Standard

**PLOT COVERAGE**

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

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



Plot Size = 420 s.m. House = 118 s.m. Coverage 28% Acceptable

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

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

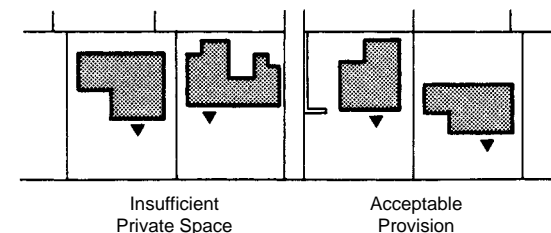
Consideration will also be given to the size of the proposed house. It may for instance, be inappropriate to site a large executive house on a small plot which just achieves the 30% plot coverage. As a general rule, large executive style houses should be sited on large plots producing considerably less than the 30% coverage. Similarly, a lower coverage might also be appropriate when an awkward shaped plot is involved in order to provide useful areas of garden ground.

**PRIVATE AMENITY SPACE**

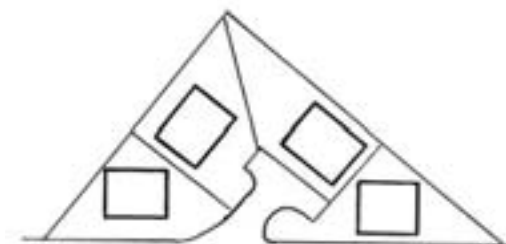
Applying the above standard to a new house development should ensure that around 70% of the plot remains open but all of this could be taken up by front garden, car space, drive etc., leaving none for the long list of private activities that gardens are required to cater for, such as sitting in the sun, playing with the children, eating out-of-doors on a nice day, drying clothes or even parking the kids bicycles.

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

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



The diagram below illustrates the difficulties in achieving the minimum standards indicated above for private amenity space, plot coverage and plot size when an awkward shaped development site is involved. The scheme illustrated still produces plots of 400 square metres but lacks adequate usable private amenity areas and the development is overly congested producing a poor quality environment. One house is forced to breach the building line.



**DISTANCE BETWEEN BUILDINGS**

Perhaps the greatest bone of contention with objectors to new house proposals, concerns the distance between the proposed dwelling and their own. It is also valid that the planning authority should aim for reasonable distances even in the case where there are no objections, for instance, where only the applicant's house is affected (in the case of existing curtilage subdivision) or to ensure a reasonable level of amenity within and between the new houses on the development.

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

**Main Living Room Window to:-**

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

**Other Habitable Room Window to:-**

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

**Non-Habitable Room Window to:-**

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

**Blank Wall to Blank Wall - 2 metres**

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

**From:**YoungN

**Sent:**2 Jun 2015 15:02:39 +0100

**To:**DuthieNG

**Subject:**RE: Erection of Dwellinghouse and Double Garage (Re-Application) - Land to Rear of Nordon, Shielhill Road, Kirriemuir - 14/00670/FULL

Neil,

I would not have any concerns regarding flooding assuming it had some sort of SUDs to limit runoff to greenfield rates. I may like to see plans prior to construction to ensure that an appropriate system is installed but there would be nothing to prevent the development.

Regards,

Neil

Neil Young:- Design Engineer, Angus Council, Communities, Technical and Property Services, Engineering and Design Services, County Buildings, Market Street, Forfar, DD8 3WR

Tel: 01307 473173

From: DuthieNG

Sent: 02 June 2015 14:33

To: YoungN

Subject: Erection of Dwellinghouse and Double Garage (Re-Application) - Land to Rear of Nordon, Shielhill Road, Kirriemuir - 14/00670/FULL

Neil

I am writing regarding the above application, which has only been made valid again after problems with site ownership.

An objector stated concerns over possible flooding to the house to the north, which is lower down than the application site. Would this be an issue which would concern Roads? The application is to be refused and I know they wish to appeal to the Review Body.

I would be grateful for your response by Tuesday 9 June 2015.

Thanks

Neil Duthie

Planning Officer ( Development Standards ) Communities Planning & Place Angus Council County Buildings Market Street Forfar

DD8 3LG

If calling or telephoning please ask for Neil Duthie on 01307 473229 or e-mail [DuthieNG@angus.gov.uk](mailto:DuthieNG@angus.gov.uk)

ANGUS COUNCIL

COMMUNITIES  
PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

14/00670/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

26	8	14
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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



**From:**GrahamIH  
**Sent:**8 Jun 2015 10:20:11 +0100  
**To:**DuthieNG  
**Cc:**ThomsonSD  
**Subject:**Erection of Dwellinghouse and Double Garage (Re-Application) - Land to Rear of Nordon, Shielhill Road, Kirriemuir - 14/00670/FULL

Neil

I refer to your request for comments following concerns raised by a neighbouring resident in respect of a flue proposed as part of the above development.

I have looked at the information submitted in respect of the application and note that the flue terminates below the roof ridge level of the main part of the proposed dwellinghouse. Relevant guidance states that the dispersion of flue gases and smoke can be complex in cases where there are buildings higher than the flue within a distance equal to five times the flue height. Although it may be the case that the proposals would comply with current Building Regulations these are primarily concerned with ensuring that the products of combustion are carried safely to the external air; they do not provide a safeguard or defence against the creation of a Statutory Nuisance in terms of the Environmental Protection Act 1990 (as amended).

Given the close proximity of neighbouring properties and the likelihood of complaints being received regarding smoke nuisance this Service would object to this application as it currently stands.

I thank you for the opportunity to provide comment. If you wish to discuss anything further please do not hesitate to contact me.

Iain

Iain Graham | Environmental Health Officer | Angus Council | Communities | Regulatory and Protective Services | County Buildings, Market Street, Forfar, DD8 3WE | ☎01307 473347

19 Parkhill Place  
Kirriemuir  
Angus  
DD8 4TA

26 August 2014

Head of Planning  
Angus Council  
Communities  
Planning & Place  
County Buildings  
Market Street  
Forfar  
DD8 3LG

Dear Sirs,

Planning Application Reference: 14/00670/FULL  
Proposed Development at Land to Rear of Nordon, Shielhill Road, Kirriemuir

On 11 August 2014 I received notification of the above planning application submitted following the withdrawal of the applicant's previous application (14/00404/MSCL). I understand that the previous application was withdrawn following advice from the Council's planning officer that a modest sized house should be investigated which did not have an adverse affect on existing residential amenity.

I do not consider that the new application has adequately taken account of this advice and the new proposal can in no way be described as 'modest'. The only notable changes appear to be (i) the proposed dwellinghouse has been moved one metre further away from my boundary and (ii) the facing bedroom wall moved to the rear in an attempt to get around the Council's policy on facing walls and windows.

I therefore wish to formally object to this Application 14/00670/FULL on the grounds that the proposed development is contrary to:

- (i) Angus Council Local Plan; and
- (ii) Advice Note 6 Backland Housing Development;
- (iii) Advice Note 6 The Survey of Trees on Development Sites;
- (iv) Advice Note 24 Residential Boundary Treatment,
- (v) Biodiversity: A Developer's Guide.

Notwithstanding the very minor alterations to the proposed dwellinghouse contained in this application, if approved, this development will still result in a total loss of sunlight from my back garden and will have a significant adverse impact on my privacy and amenity. In particular:

- Schedule 1 of the Local Plan outlines the development principles to be taken into account and specifically states that ‘the amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy’; and that development proposals ‘should not result in unacceptable visual impact’;
- Advice Note 6 states that backland development may only be justified if it does not impose ‘unreasonably on the space standards and privacy of existing residents’ and that ‘the principle of protecting the amenity of existing residents remains a prime concern’;
- Criteria 2 of Advice Note 6 states that ‘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**’. The Advice Note then provides a sketch drawing of what is acceptable space and what is not acceptable space. It is clear from this that what is being proposed in this application is far from acceptable due to the close proximity of the proposed house with my boundary and my property;
- Criteria 3 of Advice Note 6 specifies that ‘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 windows are inclined at an angle to one another the distance required between the windows will be less.’ (The suggested distance when windows are horizontally facing is 20 metres and when inclined at an angle 13 metres.) Whilst the applicant has now moved the bedroom window to the rear of the property in an attempt to get around this, in my view this does not take away from the fact that the proposed house is unnecessarily close to my boundary and will be completely overbearing;
- Advice Note 24 states that the Council acknowledges that the back garden forms the main outdoor private area for most dwellings and that it is not unreasonable that householders should seek to maximise that privacy and provide safety for children etc.;
- Advice Note 6 makes the point that arguably the standards of privacy and openness enjoyed by residents affected by backland development should be greater than that associated with a traditional estate development.

I consider that the proposed house contravenes all of these principles and in particular the provisions of Advice Note 6 as it is to be sited only 2 metres from my boundary (1 metre in the previous application) and will extend along my boundary for 12 metres (13 metres in the previous application) and therefore will practically run parallel to the whole length of my house.

The previous application indicated that the proposed house would be 6 metres in height and it is notable that the present application does not contain any details about the proposed height whatsoever. This is contrary to the terms of Advice Note 6 which clearly states that the height must be included. **Please note that the land on which the house is to be built sits at a significantly higher elevation than my house and will therefore be additionally**

**overbearing. Any proposed height of the building will therefore require to take this into account.**

If approved there will be approximately 3 metres between the wall of the proposed house and the window and wall of my rear lounge. This lounge is used by myself and my family as a sitting room and has full ceiling to floor windows on all external sides. This will have an unacceptable impact on the amenity of my house by virtue of being overbearing and overlooking and will result in a total loss of my privacy and amenity and a complete loss of sunlight from my garden. The overshadowing and loss of daylight and sunlight that this will cause is unacceptable, particularly having regard to the respective site elevations as the plot sits approximately one metre higher than my property. I would request that the applicant be required to submit a sunlight path analysis prior to consideration of this application based on the respective elevation of the plot and my back garden. The proposed house will overlook my private amenity space where I sit outside, dry clothes and where my children keep their pets. Again, this overlooking will be particularly intrusive since it will be from a higher elevation. It will significantly restrict daylight and remove all sunlight in this area. It will therefore take away from the reasonable enjoyment of my property.

The proposed house will seriously erode the residential amenity of my property. It will unreasonably restrict my daylight and privacy. It will have an overbearing effect. I believe that the proposed house is disproportionately big for the plot and is still far too close to the boundary with my house. It cannot in anyway be described as a 'modest' dwelling which is what had been recommended by the Council's planning officers. It represents significant overdevelopment of the site and is absolutely not in keeping with the local pattern of development. The proposal is also contrary to local development plan policies S3 and S6 and the development principles set out in Schedule S1: Development Principles.

A further matter concerns trees. Having wrongly stated on the previous application that no trees will be removed, the Applicant's agent has now stated on the application form that **all** trees will be removed. This is of great concern as there are a significant number of nesting birds in these trees and an abundance of wildlife within the plot. If a more modest house was proposed then it would be possible to retain many of the trees thereby reducing the environmental impact and would be in keeping with the recommendations contained within the 'Biodiversity: A Developer's Guide' produced by the Tayside Biodiversity Partnership of which Angus Council is a partner. I am also of the view that the applicant should be required to submit a tree survey in keeping with the recommendations in the Council's Advice Note 22.

As the proposed development is situated higher than my house and garden I am also very concerned about possible flooding to my property. I understand that this has been an issue in the past.

I am also concerned at the ability of the existing sewerage system to cope with the addition of another house and also do not consider there to be suitable access to this site.

Should this application be approved by the Council I consider it would amount to a breach of my right under Article 8 of the European Convention of Human Rights namely, the right to respect for private and family life and home. Article 8 provides that there shall be no interference by a public authority of this right.

In conclusion, I strongly object to this application on the above grounds. The development is contrary to the Council's Local Plan and own Advice Notes. It would also result in an unacceptable level of density of housing and will completely remove any sunlight or privacy which I currently enjoy and to which I am entitled.

I note that Advice Note 6 states that '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'. I would therefore welcome the opportunity to discuss this with the planning department or committee members. I would also like to request that a further site visit be made to my home so that the true impact of this development can be accurately assessed.

Yours sincerely,

Debbie Robertson

**Comments for Planning Application 14/00670/FULL****Application Summary**

Application Number: 14/00670/FULL

Address: Land To Rear Of Nordon Shielhill Road Kirriemuir

Proposal: Erection of dwellinghouse and double garage re-application

Case Officer: Neil Duthie

**Customer Details**

Name: Ms Debbie Robertson

Address: 19 Parkhill Place Kirriemuir

**Comment Details**

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Further to my telephone conversation with Neil Duthie last week I understand that although this is a re-application, I do not need to resubmit my letter of objection which I previously submitted on 26 August 2014. I therefore simply wish to reiterate my continued objection to the application and confirm that my reasons for objecting remain as stated in my said letter.

**FOX PLANNING CONSULTANCY****75 GARSTANG ROAD EAST POULTON-LE-FYLDE FY6 8HL**Tel: 01253 885515 Mob: 07749324825 Email: foxpc@btinternet.com

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28 August 2014

Mr Neil Duthie  
Planning Officer  
Angus Council  
County Buildings  
Market Street  
Forfar

Via Email to: [planning@angus.gov.uk](mailto:planning@angus.gov.uk) & [DuthieNG@angus.gov.uk](mailto:DuthieNG@angus.gov.uk)

Dear Mr Duthie

**LETTER OF REPRESENTATION ON BEHALF OF MR D WOTHERSPOON  
PLANNING APPLICATION 14/00670/FULL  
LAND TO REAR OF NORDON SHIELHILL ROAD KIRRIEMUIR  
ERECTION OF DWELLINGHOUSE AND DOUBLE GARAGE RE-APPLICATION**

Please register this letter of representation as an objection to the above planning application on behalf of Mr David Wotherspoon, owner/occupier of Balnakeilly, Sheilhill Road, Kirriemuir, (located immediately to the east of the application site).

The grounds for objection are as follows:

**Inaccurate/Insufficient Information**

The site currently contains a detached garage which, due to the previous ownership history, has one wall partly erected upon the north east boundary wall of the site. The boundary wall along this north east boundary lies wholly within my client's ownership. The submitted Dwgs indicate a proposal to block up existing openings and reinstate the top of the boundary wall. The applicant has no control over my client's wall and therefore this information on the submitted Dwgs is misleading. The wall is not within the applicant's ownership/control and therefore technically is not within the red edge of the application site. No work can be undertaken on this wall without my client's consent. Further, the applicant/agent is required to serve formal ownership notice upon my client for any works that form part of a planning application concerning my client's property/land and no such notice has been served. It is requested that the applicant be asked to amend the application to exclude my client's land/property from the proposal and any reference of proposed works to my client's wall.

My client is concerned that the proximity of the development to his boundary wall could cause damage to the foundations and also that the 1.2 metre separation distance, reduced to around one metre by the overhanging eaves would not provide adequate working room for construction and also for future maintenance of the building.

The submitted plan indicates notional ground levels of the site relative to the proposed dwelling, without any precise measurements. These ground levels are not supported by the submission of a levels survey and therefore cannot be relied upon as being accurate. It is

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requested that the applicant be requested to submit a levels survey showing the existing spot levels throughout the whole site, including the access. Additionally it is requested that full details of proposed ground levels are requested together with precise finished floor levels. It is considered essential that full levels details are essential to enable the proper consideration of the impact of the proposed development at this application stage.

The accuracy of the dimensions of the site is disputed. It appears that the depth of the plot could actually be one metre less than that shown on the submitted plans and this heightens concerns regarding the distance between the proposed dwelling and the boundaries.

The application submission states that the applicant owns the application site however it is understood that the site is currently advertised as being "under offer" and it is unclear whether the applicant does currently own the site.

The plans indicate a vent pipe to the kitchen area adjacent to the north east boundary, presumably for the stove. It is unclear whether this position complies with the Building Regulations and whether this would result in any detrimental impact upon my client's amenity in terms of smoke/fumes being expelled in close proximity to the boundary and my client's garden/windows.

### **Overdevelopment**

The proposal involves the erection of a large three bedroom dwelling with integral double garage on a relatively small backland plot. The footprint of the dwelling occupies far in excess of 30% of the plot area and leaves little room around the dwelling with low levels of amenity and garden ground.

The planning department's consideration of the proposed development of this site since the initial outline application in 2007 has consistently been in support of a small, single storey, modest sized dwelling on the site with permitted development rights removed. This is clearly reflected in the extant consent ref: 12/00427/PPL. Two previous applications have been withdrawn due to the proposals being unsuitable for the site. The current proposal represents a gross over-development of the site which would have an unacceptable and detrimental impact upon neighbouring dwellings. This is evident in the cramped nature of the proposed development which would have a detrimental impact upon neighbouring residential amenity in addition to providing a poor level of amenity for the proposed dwelling.

The width of the central bay of the proposed dwelling has resulted in an increased roof height with a ridge height that would be higher than normal single storey dwellings. This high ridge height (which is increased to over 6 metres as a result of the sloping ground levels of the site), its length, scale and massing would increase the oppressive nature of the development and the level of overshadowing which would have an adverse impact upon my client's dwelling, particularly in terms of overshadowing and loss of daylight and afternoon/early evening sunlight.

The over-development would have a detrimental impact upon neighbouring residential amenity, including privacy levels and the character of the area.

The siting, size, massing, height and design of the proposed dwelling are not consistent with the previous consents supporting the erection of a modest sized dwelling on the site.



### **Impact upon Residential Amenity**

The submitted plans show a bedroom window in the north east elevation directly overlooking my client's private rear garden area and situated 1.2 metres from the boundary wall. It is considered that the close proximity of this window and the direct overlooking therefrom will result in a significant, detrimental and unacceptable loss of privacy to my clients' residential amenity. Further, the lack of clarity concerning the existing/proposed site levels and finished floor levels compounds the problem in that the raising of the finished floor level at the north corner of the proposed dwelling, as indicated in the submitted plan, would exacerbate the problem in that any increase in height would intensify the level of overlooking and loss of privacy. It is submitted that it ought not to be acceptable to site a bedroom window in this position directly overlooking my client's private amenity area. The proximity of the dwelling/window to the boundary further demonstrates the unacceptable over-development of the proposed development.

The close proximity of the bedroom window to the boundary wall would provide an unsatisfactory level of amenity for the proposed dwelling, in particular in breach of Advice Note No 13 which recommends a minimum distance of 10 metres from a habitable room window to a blank wall; this is in addition to the detrimental impact of overlooking from the bedroom window into my client's garden.

The siting of the proposed dwelling, and its roof height of 6 metres and situated on elevated ground, situated in close proximity to the north east boundary would have an unacceptable and detrimental impact upon the amenity of my client's dwelling, in particular it would result in an oppressive and overbearing impact from my client's dining room and would result in the loss of sunlight and daylight to that habitable room which is used on a daily basis. The 1.2 metre distance of the boundary is reduced by the overhanging eaves/fascia boards which would sit around one meter from the boundary thereby increasing the oppressiveness, scale, bulk and massing of the proposed development.

The proposed roof light to the kitchen, in the north east elevation, will be visible from my client's first floor bedroom window and raises further privacy concerns.

### **Conflict with Policy**

It is submitted that the proposal is not consistent with previous approvals for the site and with current development plan policy including the following:

**Advice Note 6 Blackland Housing Sites:** seeks to ensure that backland development is accommodated without undue visual intrusion and that residential standards of space and privacy are maintained at an acceptable level while the principle of protecting the amenity of existing residents remains a prime concern. The proposed development does not minimise the loss of privacy, outlook and space for adjoining residents and does not maintain a reasonable degree of space around new/existing dwellings and conflicts with Advice Note 6.

**Advice Note 14 Small Housing Sites:** the Council recommends that dwellings should not cover more than 30% of the plot area and that this may only be increased where a higher density would be in keeping with the character of a high density area. It is submitted that the current proposal significantly exceeds the permitted plot coverage amounts to a significant departure from this policy.

**Policy S3: Design Quality:** requires a high quality of design, including development that fits with the local pattern of development. It is considered that the proposed development conflicts with Policy S3 as it is out of keeping with the local pattern of development by reason

of the site layout , 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;

**Policy SC2: Small Sites:** The proposed development is not consistent with previous approvals for a modest sized dwelling on the site and would not provide a satisfactory residential environment in terms of maintenance of residential amenity and privacy of adjoining housing and therefore conflicts with Policy SC2.

**Policy S6: Development Principles:** It is considered that the proposed development conflicts with Policy S6 Schedule 1 Development Principles concerning amenity requirements, in particular the proposed development would: (a) not safeguard the amenity of proposed and existing properties relating to unreasonable restriction of sunlight, daylight and privacy; and (b) the proposal will result in a crammed appearance and thereby would have an unacceptable visual impact that would be out of keeping with the character and amenity of the area.

**Policy S1: Development Boundaries:** As a result of the conflict with the above policies the proposed development would also conflict with Policy S1.

## Conclusion

Having regard to the previous carefully considered planning approvals for the erection of a dwelling on this site it is clear that the current proposal is not consistent with the previous outline consents and also conflicts with the above development plan policy.

It is requested that the application is refused as there is no justification to approve the application in contravention of the above Local Plan Policies and Supplementary Planning Guidance.

Further, it is clear that insufficient information has been submitted to enable a full and proper assessment of the proposed development and it is requested that further information is required in the event that the application were to be considered for approval.

I should be grateful if you would acknowledge receipt of this letter and keep me informed of progress.

Yours sincerely



Jane K Fox MSc PgDip  
Planning & Development Consultant

'Nordon'  
Shielhill Road  
Northmuir  
Kirriemuir  
DD8 4PA

RECEIVED

27 AUG 2014

14/KLJ

26<sup>th</sup> August 2014

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

Dear Sir,

Planning Application 14/00670/FULL

I wish to record my objections to the planning application referenced above.

- 1) Size of house is a great deal larger than previously stated by Angus Council development control committee outline consent report no.647/07. I quote heading - *Adverse affect on existing residential amenity through loss of daylight/sunlight and privacy*. It states – It is considered on this backland site that **a small single-storey dwelling house could be accommodated**. The plans for the proposed house is definitely not small or modest, it is a very large scale house. It will unreasonably restrict my daylight and will have an overbearing affect on my privacy in my back garden as proposed house runs parallel with my house, some 14.2 metres (13m plus 1.2m from east boundary wall). This is practically three quarters length of my house. With regards to the height for the proposed house this is not on plans.
  
- 2) I question the measurements between Nordon and 19 Parkhill Place. The distance on the plans state from the boundary line of 19 Parkhill Place to new build is 2 metres, width of new build house is 18.5 metres, from new build to Nordon boundary is 6 metres, *total 26.5 metres*. According to scale on plans the measurement between Nordon and Parkhill Place is only *24 metres*. There appears to be a discrepancy of 2.5 metres. Where is the 2.5 metres to come from?  
I also question plot size, 15<sup>th</sup> May 2014 application for planning permission, it states on no.7 site area square metre (sqm) is 666.  
On the 6<sup>th</sup> August 2014 application for planning permission it states on no.7 site area square metre (sqm) is 656.  
The same person has put two applications in for planning but plot sizes differ. What is the correct size of plot ? I'm under the impression it is in the region of 560 square metre (sqm)?
  
- 3) Most, if not all inside measurements are detailed as is colour of roof tiles, rough cast, and type of facing brick, yet lacking essential details of outside measurements on plans. E.g.
  - Height of house from ground level to roofline (essential)
  - Size of windows and door facing south (this is directly across from my dining room window)
  - Width of ramp and steps leading to back door (on parking and turning area). My concern is for the damage that could be caused to the north-east corner of garage due to the sharp turn into a very narrow driveway.

- 4) I repeat my concern about the access driveway leading to this plot which is long and narrow with two walls either side, mainly suitable for cars or small vehicles. My wall and garage (which are on the boundary line), my concern is for the stability of the foundations to my wall and garage as large construction vehicles which will be used on the build of a house and also to dig up the driveway for all the services they require. The constant use of heavy vehicles up and down this driveway there is more than a likelihood of damage to the garage and wall of my property. This was proven when part of our wall was demolished by a builder merchant's lorry over 30 years ago during the rather small undertaking of constructing the existing garage on this plot and should not be allowed to occur in this instance.

Yours Sincerely,



Gordon A. Milne

'Nordon'  
Shielhill Road  
Northmuir  
Kirriemuir  
DD8 4PA

Tel: [REDACTED]

2<sup>nd</sup> June 2015

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

RECEIVED

- 3 JUN 2015

ILIKW

Dear Sir,

Planning Application 14/00670/FULL

I wish to record and reiterate my objections to the planning application referenced above.

- 1) Size of house is a great deal larger than previously stated by Angus Council development control committee outline consent report no.647/07. I quote heading - *Adverse affect on existing residential amenity through loss of daylight/sunlight and privacy*. It states – It is considered on this backland site that **a small single-storey dwelling house could be accommodated**. The plans for the proposed house is definitely not small or modest, it is a very large scale house. It will unreasonably restrict my daylight and will have an overbearing affect on my privacy in my back garden as proposed house runs parallel with my house, some 14.2 metres (13m plus 1.2m from east boundary wall). This is practically three quarters length of my house. With regards to the height for the proposed house this is not on plans.
  
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Yours Sincerely,



Gordon A. Milne

**LeslieA**

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**From:** DownieKM on behalf of PLANNING  
**Sent:** 27 August 2014 11:44  
**To:** PLNProcessing  
**Subject:** FW: Planning Ref 14/00670/Full Land at Sheilhill Rd, Kirriemuir

Kathleen Downie, Clerical Officer, Angus Council, Communities, Planning & Place, County Buildings, Market Street, Forfar DD8 3LG Tel: 01307473376 Email:downiekm@angus.gov.uk

[REDACTED]

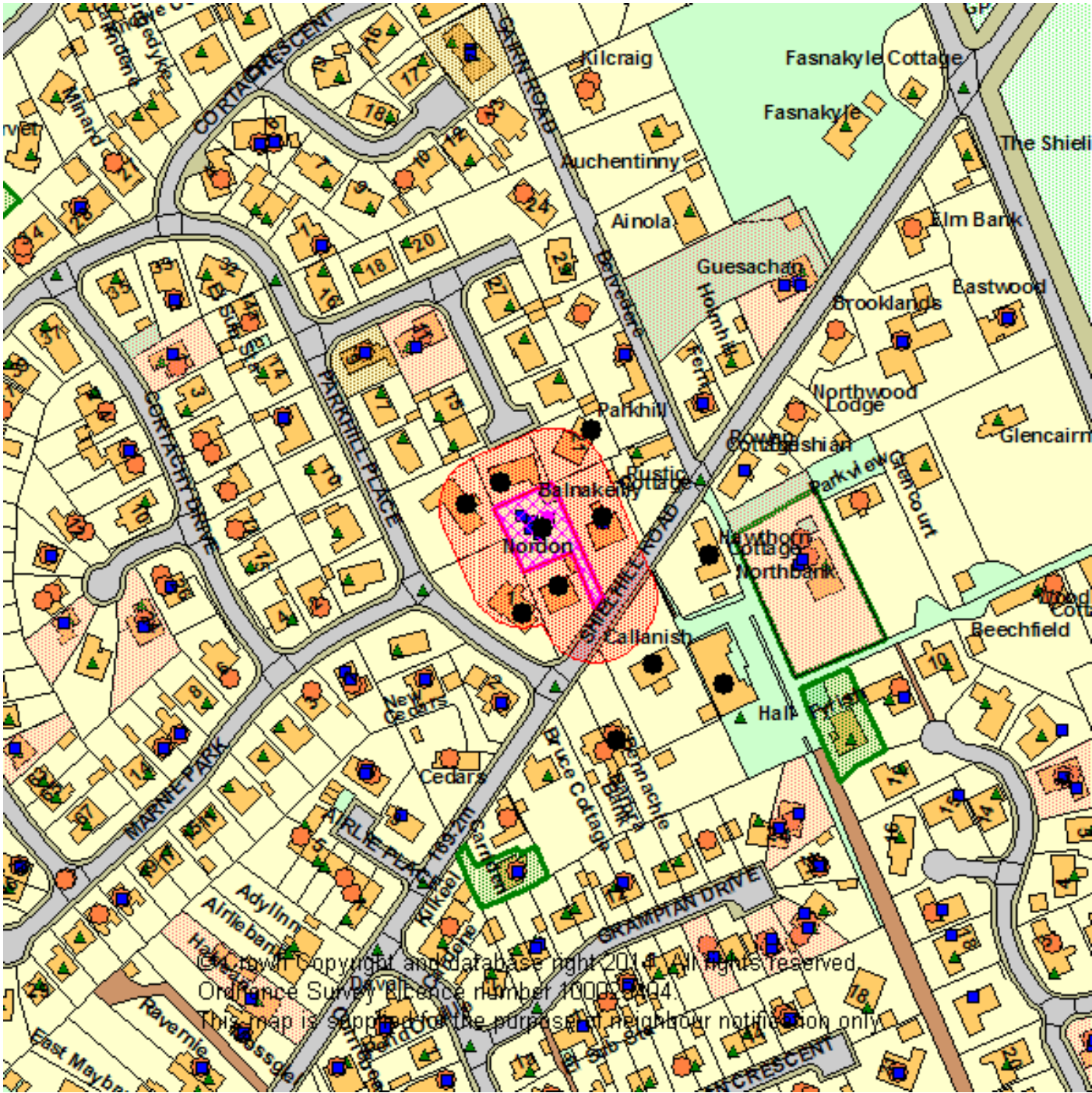
Sent: 26 August 2014 20:13  
To: PLANNING  
Subject: Planning Ref 14/00670/Full Land at Sheilhill Rd, Kirriemuir

FAO Neil Duthie,

We wish to put in an objection on behalf of Debbie Robertson to the planning permission of the proposed development land to the rear of Nordon, Sheilhill Road, Kirriemuir due to the fact that it will still have a negative impact on her privacy, view and sunlight. Changing the plans by one meter does not make a difference. We are also still concerned about the impact on drainage in Parkhill Place as we have had to call out Scottish Water several times over the last few years due to blocked drains.

Yours sincerely, Mr and Mrs Alexander Smith

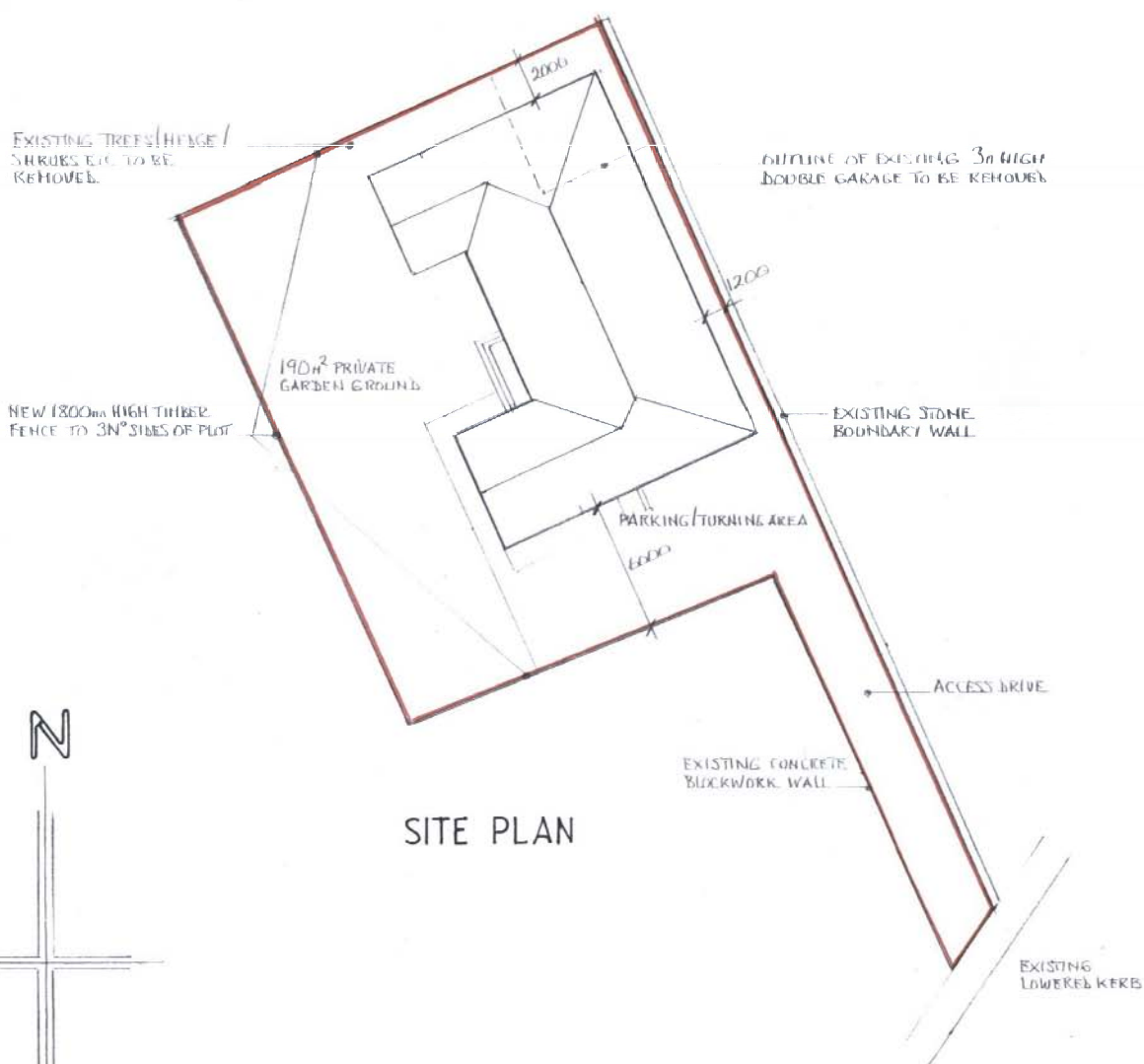
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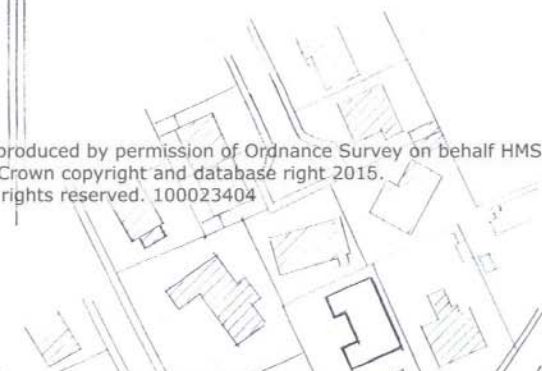


**REFUSED**

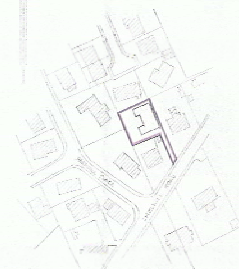
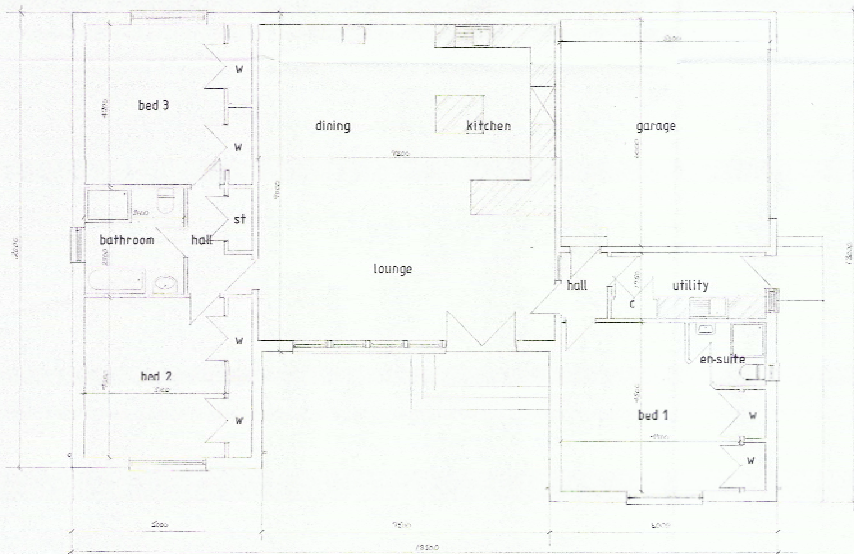
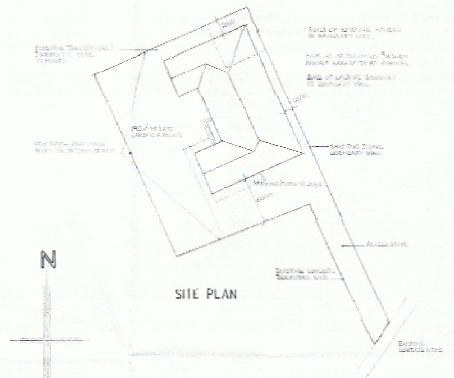
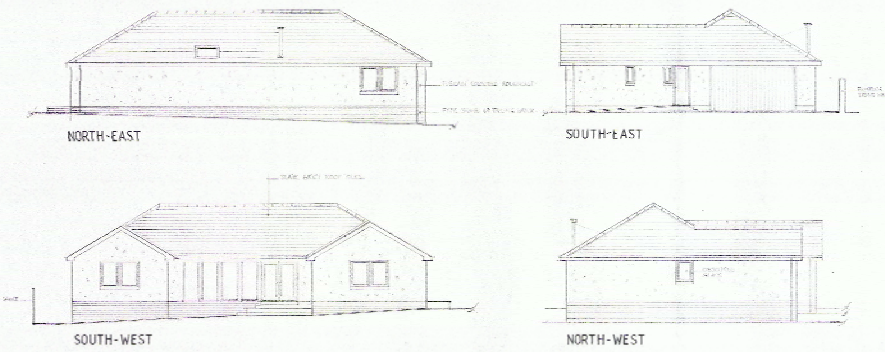


SITE PLAN

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**REFUSED**



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PROPOSED	DWELLING HOUSE with integrated DOUBLE GARAGE
AT	LAND to rear of 'ORDON', SHIELHILL ROAD, NORTHMUIR, KIRRIEMUIR, DD9 4PA.
FOR	Mr & Mrs DAVID LAITENACH.
SCALES	1:50 1:100 1:250 1:1250
DATE	JULY 2014
DRAWING	N*DC/NSRNK/01









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

PLANNING PERMISSION REFUSAL  
REFERENCE 14/00670/FULL

To Mr David Cattanach  
c/o L D Bertram  
Garlowbank Farmhouse  
Kirriemuir  
Angus  
DD8 4LH

With reference to your application dated 14 May 2015 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

**Erection of dwellinghouse and double garage (re-application) at Land To Rear Of Nordon Shielhill Road Kirriemuir for Mr David Cattanach**

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

**The reasons for the Council's decision are:-**

- 1 That the proposed development is contrary to Policy S6 and the associated Schedule 1 Development Principles criteria (a) and Policy SC2 of the Angus Local Plan Review (2009) because the development would not maintain the privacy and amenity enjoyed by adjacent property at 19 Parkhill Place because of the proximity and scale of the proposed house relative to that property; and is contrary to Policy S6 and the associated Schedule 1 Development Principles criteria (a) because of the potential for smoke nuisance to neighbouring property as a result of the height and positioning of the flue relative to the proposed roof ridge level.

**Amendments:**

- 1 This applicant has submitted an amended Site Plan to reflect the stone boundary wall along the eastern boundary of the site deleted from the application site (Plan of 8.12.14 replaces that of July 2014).

Dated this **2 July 2015**

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

RECEIVED  
25 NOV 2014  
IM

**Plot : Land to the rear of Nordon, Shielhill Road, Kirriemuir – 14/00670/FULL**

Dear Head of Planning,

I am writing this letter in the hope that you would take the points I am going to highlight into consideration when you make your decision on the application, 14/00670/FULL, which we currently have with your department.

Mr Duthie highlighted a number of points when we received our refusal at delegated authority, in abbreviated form I consider these to be:-

1. He considered the house was too big for the plot, being a total of 32%.
2. He considered that the margins around the house from the original boundary's would have an impact on the surrounding properties loss of daylight and over shadowing.

I would like to respond to the two main points that Mr Duthie has made:-

1. Mr Duthie comments in his letter that the house is 32% and as such is “contrary to Advice Note 14”, I would like to point-out a couple of factors. As you know the Advice Notes are only advice notes, because it also states in Advice Note 14, that in certain circumstances “this might be increased”. The reasons for an increase in the house coverage is often to match-in with surrounding house foot-prints, as you will see with the adjoining Ordnance Survey map, a lot of the surrounding houses in the Northmuir area, struggle to meet the 30% criteria that Mr Duthie is looking for us to meet. I would also like to point out that we have an integrated double garage on our application which counts within the house foot-print, we felt that this was the best use of space for the garage within the curtilage of the plot. We had previously submitted a house for this plot, 14/00404/MSCL, but we withdrew the application as it was a bigger house and we trimmed it to the size it is now, this was to enable us to get as close to the 30% as possible. We would ask for a degree of leniency with the 32% of the foot-print for the reasons stated above.
2. The margins around the house that Mr Duthie comments on, in our opinion will not affect the daylight or over-shadowing of the house to the eastern boundary one bit. There is a very large two story house built to the front of the eastern boundary where none of the windows will be affected, and with the height of the roof, there will be no chance of over-shadowing into their garden. By building our house, the house to the northern boundary, will actually have improved daylight quality and the overshadowing light loss that they currently have will undoubtedly improve. The reason that the building of the house would improve their light and



overshadowing is because of the existing Leylandii hedge and the existing garage. Both the Leylandii hedge and the double garage are right on the northern boundary, by taking the garage down and removing the Leylandii and putting-up a nice fence and moving the build back 2meters, we would definitely improve their amenity, loss of light and overshadowing that currently exists for the house on the northern boundary.

I hope you see the validity in the reasons we have put forward, I am a family man who has been married for 20 years, my wife and I are lucky to be blessed with a 16 year old daughter and a 13 year old son, we are "Kirrie people", not property developers who are here today and sold tomorrow.

Thank you,

David, Nicola, Erin and David Cattanach.





**DEVELOPMENT MANAGEMENT REVIEW COMMITTEE**

**APPLICATION FOR REVIEW**

**PLANNING PERMISSION (RE-APPLICATION) FOR ERECTION OF A  
DWELLINGHOUSE AND DOUBLE GARAGE AT LAND TO THE REAR  
OF NORDON, SHIEHILL ROAD, KIRRIEMUIR**

**APPLICATION NO 14/00670/FULL**

**APPLICANT'S SUBMISSION**

- |               |   |
|---------------|---|
| <b>ITEM 1</b> | Notice of Review                              |
| <b>ITEM 2</b> | Statement of Reasons                          |
| <b>ITEM 3</b> | Photographs and Additional Elevation Drawings |

## 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	DAVID	Forename	<b>RECEIVED</b> 10 SEP 2015
Surname	CATTANACH	Surname	
Company Name		Company Name	PLANNING & PLACE
Building No./Name	"Achill"	Building No./Name	COUNTY BUILDINGS 17
Address Line 1	Stirling Road,	Address Line 1	
Address Line 2	Northmuir	Address Line 2	
Town/City	Kierleithuie	Town/City	
Postcode	DD8 4PN	Postcode	
Telephone	[REDACTED]	Telephone	<b>SCANNED</b> 11 SEP 2015
Mobile	[REDACTED]	Mobile	
Fax	[REDACTED]	Fax	
Email	[REDACTED]	Email	
<b>3. Application Details</b>			
Planning authority	Argus Council		
Planning authority's application reference number	14/00670/FULL		
Site address	<div style="border: 1px solid black; padding: 5px; min-height: 80px;"> <p style="font-size: 1.2em;">LAND TO THE REAR OF WARDON, STIRLING ROAD, NORTHMUIR, KIERLEITHUIE.</p> </div>		
Description of proposed development	<div style="border: 1px solid black; padding: 5px; min-height: 40px;"> <p style="font-size: 1.2em;">ERECTOR OF A DWELLINGHOUSE AND DOUBLE GARAGE</p> </div>		

Date of application

14/05/15

Date of decision (if any)

02/07/15

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

#### 4. Nature of Application

Application for planning permission (including householder application)

Application for planning permission in principle

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

Application for approval of matters specified in conditions

#### 5. Reasons for seeking review

Refusal of application by appointed officer

Failure by appointed officer to determine the application within the period allowed for determination of the application

Conditions imposed on consent by appointed officer

#### 6. Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

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

#### 7. Site inspection

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

Can the site be viewed entirely from public land?

Is it possible for the site to be accessed safely, and without barriers to entry?

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

\_\_\_\_\_

**8. Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

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

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

I HAVE ENCLOSED A STATEMENT ON DOCUMENT ①

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 you 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.

\_\_\_\_\_

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25/05

**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

VARIOUS PHOTOGRAPHS AND ADDITIONAL ELEVATION DRAWINGS AS DOCUMENT ②.

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: DASO CARTWACH Date: 09/09/15

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

LAND BEHIND NORDON, SHIELHILL ROAD, NORTHMUIR, KIRRIEMUIR

APPLICATION :-14/00670/FULL

Dear Councillors,

we believe that when designing the property, we have taken fully into consideration all the surrounding properties, and have designed the house to lessen any potential impact towards the surrounding properties and neighbours.

One of the Planners objections is that we will affect the privacy and amenity of 19 Parkhill Place, which is to the rear of the plot. In fact we believe that we will improve 19 Parkhill Places' privacy and amenity by removing the very overgrown hedge and the large dilapidated garage, both of which are located on the boundary. By removing these and erecting a fence, we will not only take away the unsightly hedge and garage, we will vastly improve the current overshadowing and we will enable a lot more natural light to flood into the rear of 19 Parkhill Place.

We also believe that the enclosed photographs depict other existing properties which are equally as close to their respective boundaries and properties. These properties have obviously been previously passed by the Angus Planning Department, and as such, we feel they have already set a precedent of acceptability. We also feel that by having only one bathroom window on our elevation towards 19 Parkhill Place, (which obviously has obscure glass), this not only protects our privacy, but that of 19 Parkhill Place.

The second objection the Planners had objected too was our property having a wood burning stove located within it.

I called Environmental Officer Ian Graham and discussed with him his objections and concerns that he had put to the Planners. After discussing with Ian at length, we absolutely agree with his objections and are therefore happy to remove the stove from our Planning application, satisfying the Environmental Officer and the Planners objection.

Thank you for your consideration.

David, Nicola, Erin and David Cattanach.

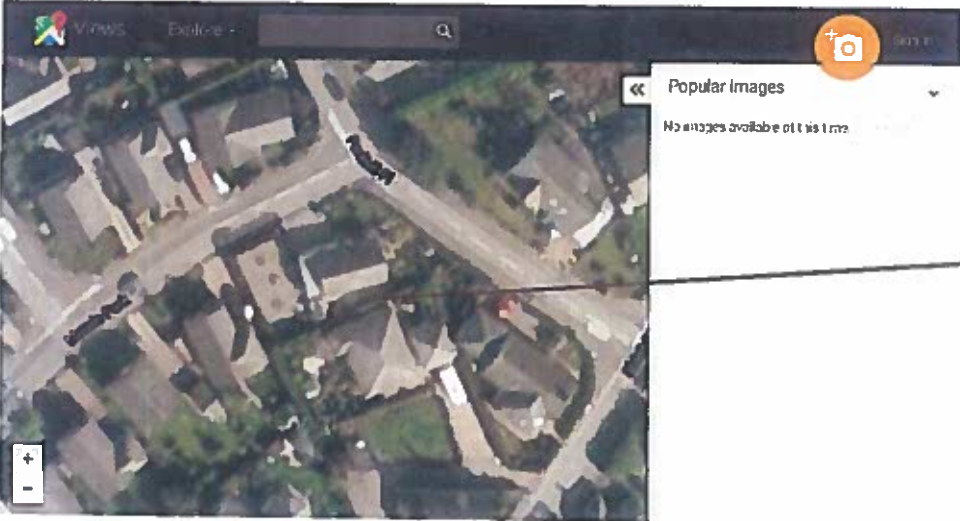


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11 SEP 2015





Photo Sphere Camera  
Google Inc.  
GET - On the App Store



House shown here proximity  
of window to window.

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11 SEP 2015

LEGUMBERT (2)



AGAIN A PHOTOGRAPH SHOWING THE  
CLOSE PROXIMITY OF THESE TWO HOUSES.

11 SEP 2015

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11 SEP 2015

THIS IS 19 PARKHILL PLACE, IT CLEARLY SHOWS HOW THE HEDGE AND GARAGE ARE AFFECTING THE AMENITY OF THIS PROPERTY, WHICH I BELIEVE WILL BE VASTLY IMPROVED WHEN THEY ARE REMOVED AND THE NEW PROPOSED HOUSE WOULD NOT HAVE THIS 'OVERSHADOWING' TOWARDS 19 PARKHILL PLACE.

11 SEP 2015  
SCANNED



THIS PHOTOGRAPH SHOWS A HOUSE WHICH IS CLEARLY HAVING AN IMPACT ON THE OTHER ONE. I AM UNSURE WHEN HOUSE WITS DEVELOPED FIRST BUT THIS CLEARLY SHOWS TO ME THAT A PRECEDENT HAS BEEN SET BY THE PLANNING DEPARTMENT IN THE PAST.

View Of Driveway Towards  
The Current Existing  
Garage, With 19 Parkhill  
Places' Roof In The  
Background.



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11 SEP 2015

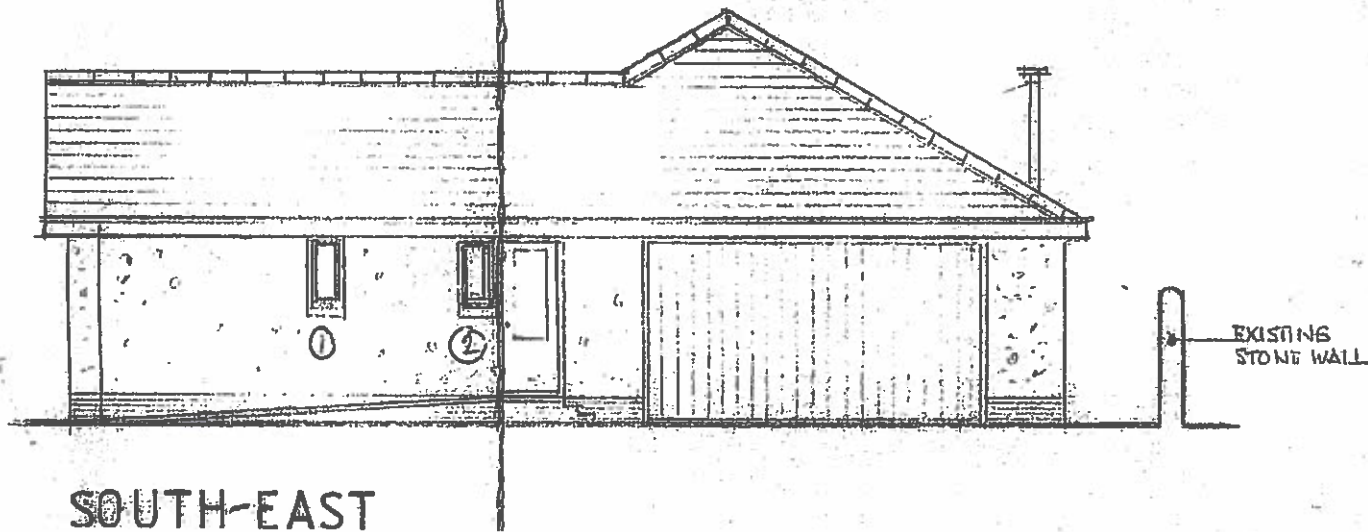
CURRENT VIEW OF THE  
DILAPIDATED GARAGE WHICH  
IS BUILT DIRECTLY ONTO  
THE BOUNDARY BETWEEN  
109 PARKHILL PLACE AND  
THE PROPOSED DEVELOPMENT  
PLOT.



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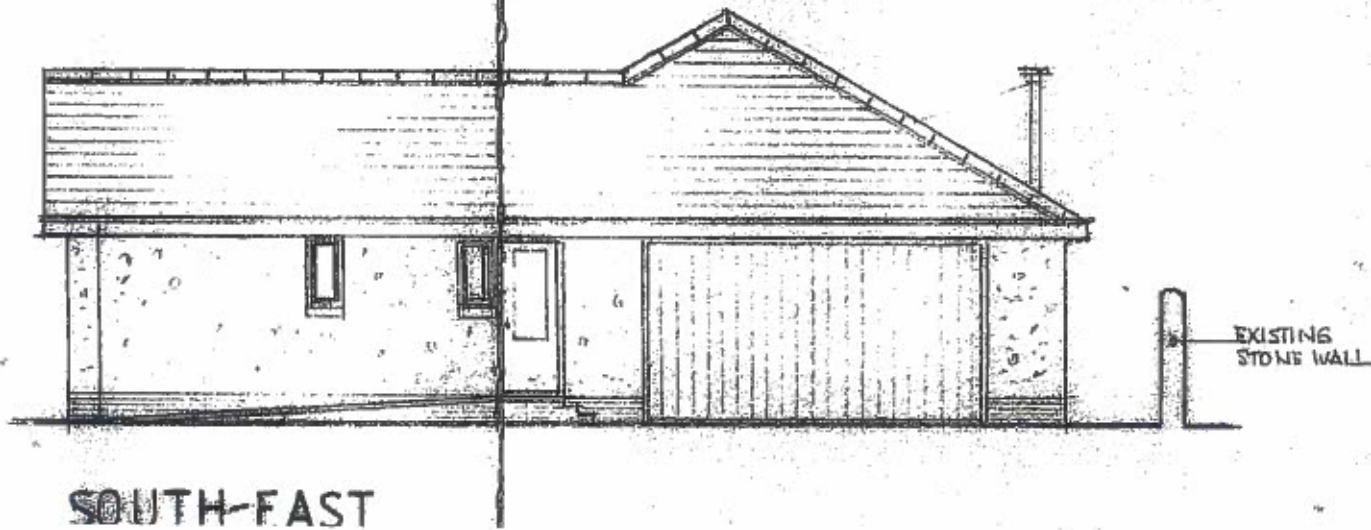
THIS PHOTOGRAPH SHOWS THE VIEW TOWARDS  
NORDEEN AND IT ALSO SHOWS THE  
VIEW FROM NORDEEN TOWARDS OUR  
PROPOSED HOUSE DEVELOPMENT.

THE TWO WINDOWS SHOWN ON THE  
SOUTH EAST ELEVATION ARE ① AN  
OBSCURE BATHROOM WINDOW AND  
WINDOW ② IS A UTILITY ROOM WINDOW.



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ANOTHER VIEW TOWARDS  
NORDEN.

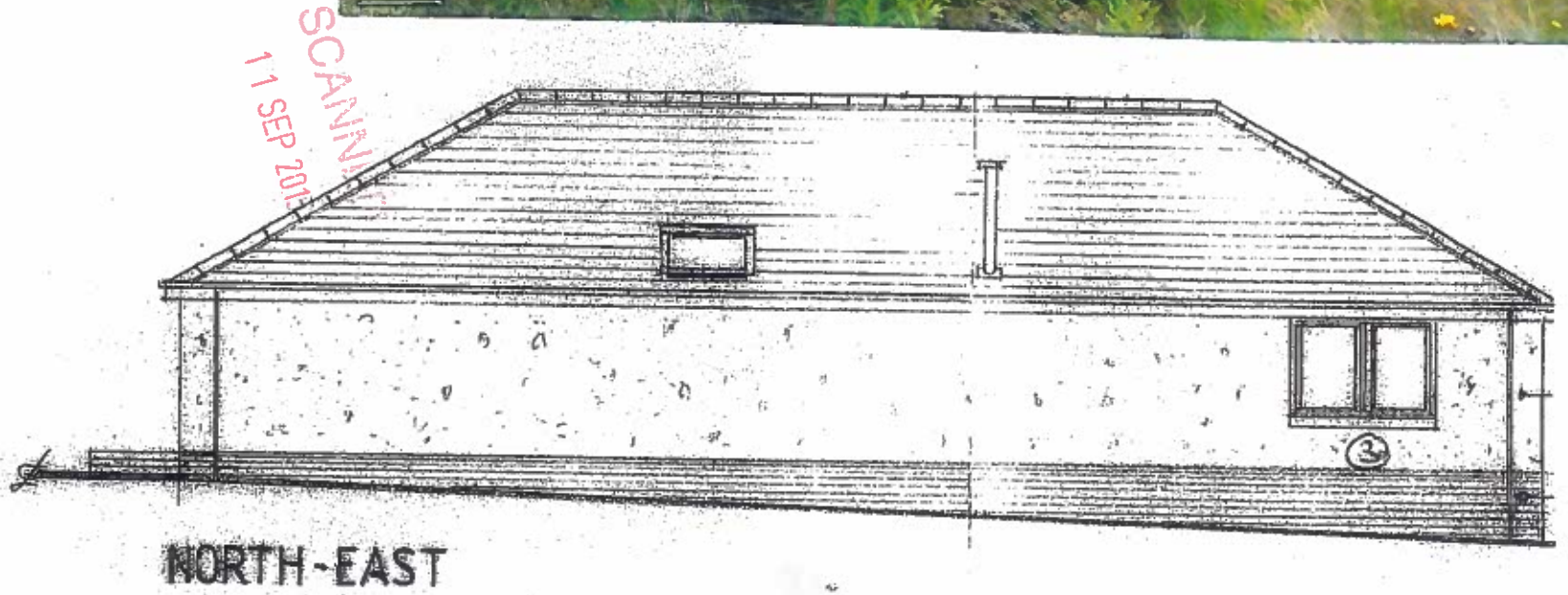


SCANNED  
11 SEP 2015



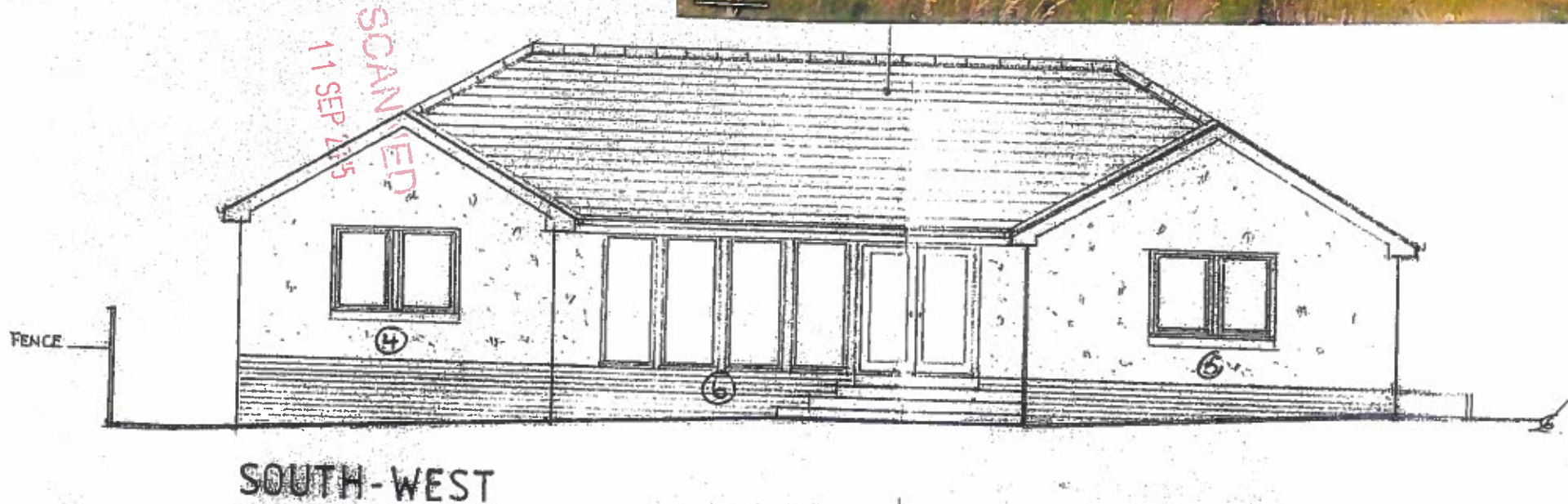
THIS PHOTOGRAPH SHOWS THE VIEW  
TOWARDS BALJAKELY FROM THE  
PROPOSED HOUSE DEVELOPMENT.

THE WINDOW ③ SHOWN ON THE NORTH  
EAST ELEVATION DRAWING IS A  
BEDROOM WINDOW, WHICH WILL BE  
WELL AWAY FROM ANY SURROUNDING  
WINDOWS OR PROPERTIES.



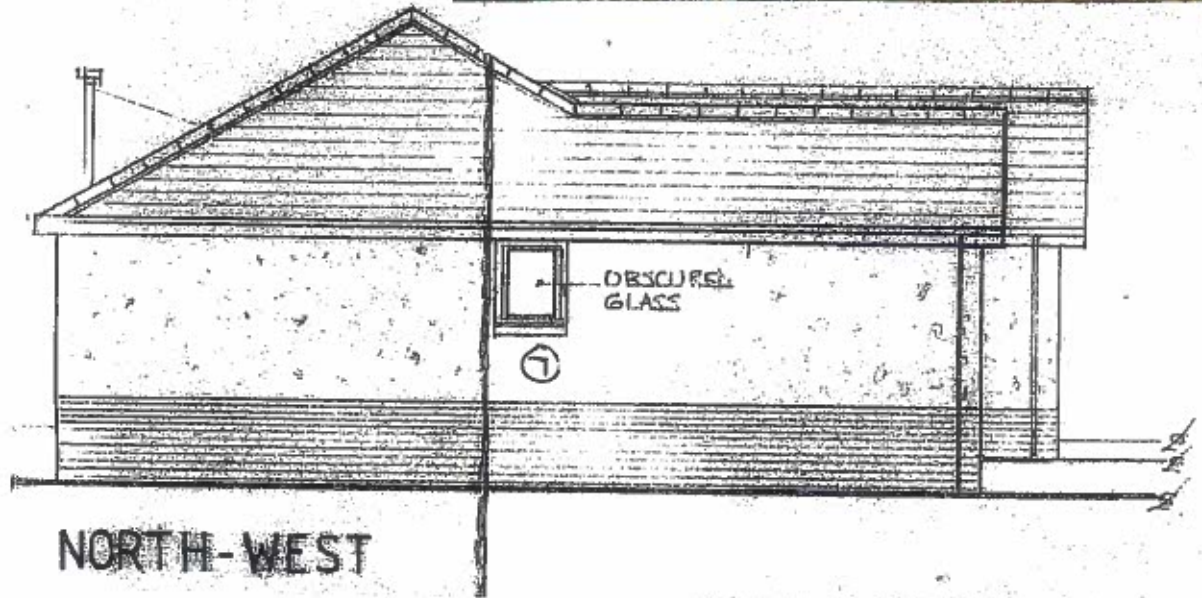
THIS PHOTOGRAPH SHOWS THE VIEW  
TOWARDS PARKHILL PLACE.

WINDOWS (4) + (5) SHOWN ON THE  
SOUTH WEST ELEVATION ARE BOTH  
BEDROOM WINDOWS WHICH COMPLY  
WITH RECOMMENDED DISTANCES FROM  
SURROUNDING PROPERTIES. THIS ALSO  
APPLIES TO WINDOW (6) WHICH ARE  
WINDOWS IN THE MAIN LIVING/LOUNGE  
AREA.



This PHOTOGRAPH SHOWS THE VIEW  
TOWARDS 19 PARKHILL PLACE, AS YOU  
CAN SEE ALL THE TREES/HEDGES ARE  
GROSSLY OVERGROWN.

THE WINDOW SHOWN ① IS THE ONLY  
WINDOW ON THE NORTH WEST  
ELEVATION AND IS A BATHROOM WINDOW,  
SO THE GLASS WOULD BE OBSCURE  
(CENTRAL VIEW IF YOU  
STANDING WITHIN THE PLOT)



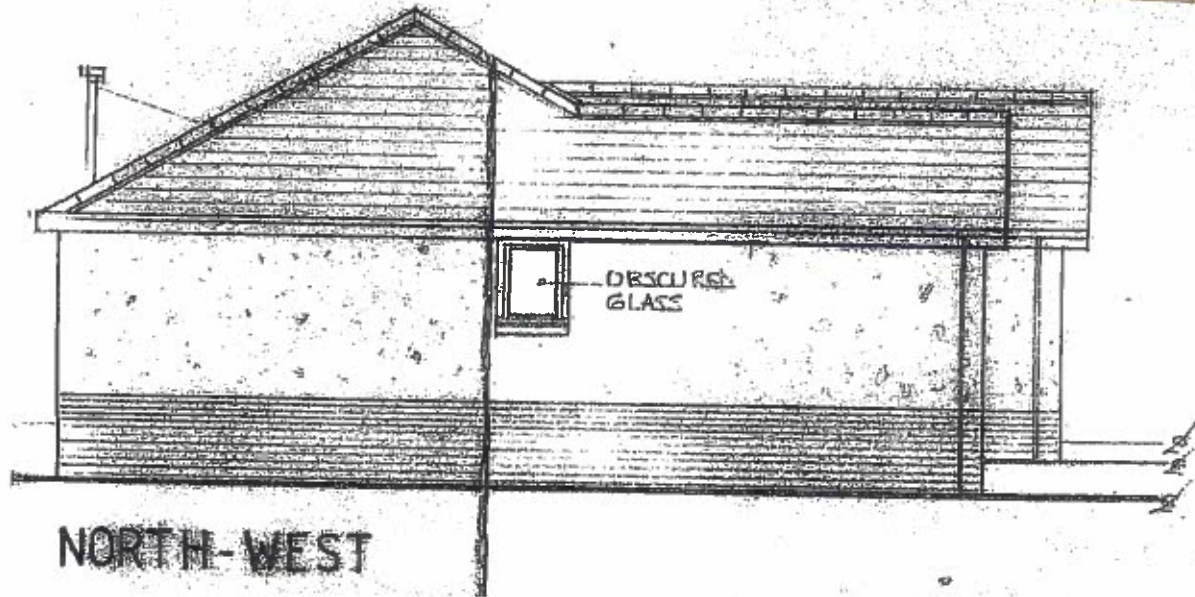
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11 SEP 2015

ANOTHER VIEW TOWARDS  
19 PARKHILL PLACE.

(LEFT HAND SIDE IF YOU  
STANDING WITHIN THE PLOT)

SCANNED

11 SEP 2015



ANOTHER VIEW TOWARDS  
19 PARKHILL PLACE.

(RIGHT HAND SIDE IF YOU'RE  
STANDING WITHIN THE PLOT)

SCANNED

11 SEP 2015



**FURTHER  
REPRESENTATIONS**

19 Parkhill Place  
Kirriemuir  
DD8 4TA  
8 October 2015

Sarah Forsyth  
Committee Officer  
Angus Council  
Angus House  
Orchardbank Business Park  
Forfar  
DD8 1AN

Dear Ms Forsyth,

**Application for Review – Application No 14/00670/FULL**

**Applicant: David Cattnach**

I refer to your letter dated 24 September 2015 advising that an application for review has been submitted by Mr D Cattnach following refusal of the above planning application. I received this letter on 28 September 2015 and understand that I have 14 days from that date within which to make further representations. On that basis I would like to make the following further representations to Committee Members:

1. I wish the terms of my original letter of objection dated 26 August 2014 to be fully considered along with this letter as all of the grounds of objection outlined in that letter are still relevant more than a year on;
2. In his application for review, Mr Cattnach states his belief that his proposed dwellinghouse will *“improve 19 Parkhill Places’ privacy and amenity by removing the very overgrown hedge and the large dilapidated garage.....and enable a lot more natural light to flood into the rear of 19 Parkhill Place”*. With all due respect to Mr Cattnach, this is his own subjective view. The hedge to which he refers is indeed becoming overgrown and is now beginning to have an adverse effect on our daylight and sunlight. Nevertheless, this is eminently preferable to having an even higher solid dwellinghouse running parallel to the length of our house and garden. Furthermore, hedges can be trimmed and we do of course now also have the benefit of the High Hedges legislation.

I wish to emphasise yet again the impact that this proposed dwellinghouse will have on the privacy and amenity of myself and my family and also the overshadowing and loss of daylight and sunlight which would result. The site upon which the dwellinghouse is to be erected sits at a higher elevation than 19 Parkhill Place and I would wish to extend an invitation to Committee Members to visit my property to view the boundary both from the

interior and exterior of my house. This would enable the full impact of the proposals to be fully appreciated.

3. Mr Cattnach also makes reference to other existing properties with close boundaries. Again, with all due respect to Mr Cattnach – and as he himself acknowledges – he does not know when these properties were built or in what order. It is entirely possible and indeed probable that the houses were built either as part of the same development or were not erected on a backland site.

Even if this is not the case – and as the Report of Handling points out - examples such as these only serve to illustrate the limited level of amenity that is maintained where a house is allowed too close to existing housing. The purpose of Advice Note 6 was to prevent this type of development taking place.

4. I wish to reiterate that the application was refused on the grounds that it is considered to be overdevelopment (not a modest sized dwellinghouse); excessive footprint of the building being in close proximity to the boundary with my property resulting in loss of privacy and amenity. The proposal is therefore contrary to development plan policy; and is contrary to the Council's Advice Notes 6 and 14. There are in my view no material considerations which would justify allowing the appeal.

I would be grateful if this letter together with all my previous correspondence could be put before the Committee Members for consideration. Please also advise me of the date when this will be considered so that I can make arrangements to attend.

Yours sincerely,

Debbie Robertson



**APPLICANT'S RESPONSE  
TO FURTHER REPRESENTATIONS**

**LAND BEHIND NORDON, SHIELHILL ROAD, NORTHMUIR, KIRRIEMUIR.**

**APPLICATION :-14/00670/FULL**

Dear Councillors,

I am writing so you can consider my reply to the letter submitted to Ms Forsyth by Debbie Robertson, 19 Parkhill Place.

In paragraph 2 Mrs. Robertson makes reference to the hedge as it's very tall and overgrown and Mrs. Robertson highlights the High Hedge Legislation she can use regarding the hedge, this is very baffling as we have stated on more than one occasion, we plan on removing the large unsightly hedge completely.

Mrs. Robertson also states that the house will overshadow her house, but the proposed house will have hip roofs all round, which keeps the roof height to a minimum, and when the house is located back from the boundry by two meters, we will significantly increase the angle that light will be able to flood into the back of 19 Parkhill Place.

In paragraph 3 Mrs. Robertson makes reference to the existing dwellinghouses and their close boundries. I have openly admitted that I am not sure of when the houses were constructed, but that is not the issue I highlighted, I highlighted the fact that there are other pre-existing houses that have been passed by the Planning Department, which are certainly closer and as such the Planning Department have set a precedent of acceptability, and as you will already know the Advice Note`s issued from the Council are indeed advice notes, and are not planning law.

In paragraph 4 Mrs. Robertson refers to our proposed house as having an excessive footprint, this has never been an issue with the Planning Department.

Thank you again for your consideration,

David, Nicola, Erin and David Cattanach.