

**ANGUS COUNCIL**

**DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 21 NOVEMBER 2017**

**17 SIDLAW TERRACE, BIRKHILL**

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

**ABSTRACT:**

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission for the erection of a new dwellinghouse in the garden ground (re-application), application No 17/00369/FULL, at 17 Sidlaw Terrace, Birkhill.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**); and
- (ii) review the case submitted by the Applicant (**Appendix 2**).

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN**

This Report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan 2017-2030:

- Safe, secure, vibrant and sustainable communities
- An enhanced, protected and enjoyed natural and built environment

**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

**ANGUS COUNCIL'S SUBMISSION ON GROUNDS OF REFUSAL**

**APPLICATION NUMBER – 17/00369/FULL**

**APPLICANT- MR J DEVLIN**

**PROPOSAL & ADDRESS – ERECTION OF A NEW DWELLINGHOUSE IN THE GARDEN  
GROUND – RE-APPLICATION AT 17 SIDLAW TERRACE BIRKHILL DD2 5PY**

**CONTENTS**

<b>AC1</b>	<b>Report of Handling</b>	
	<b>Policy Tests (Angus Local Development Plan 2016)</b>	
	Policy DS1, DS3, DS4, TC2, PV7, PV15, Advice Note 14 & Advice Note 6 – Please click on the following links below: - <a href="https://www.angus.gov.uk/directories/document_category/development_plan">https://www.angus.gov.uk/directories/document_category/development_plan</a> <a href="http://www.angus.gov.uk/sites/angus-cms/files/Small%20housing%20sites.pdf">http://www.angus.gov.uk/sites/angus-cms/files/Small%20housing%20sites.pdf</a> <a href="http://www.angus.gov.uk/sites/angus-cms/files/Backland%20housing%20development.pdf">http://www.angus.gov.uk/sites/angus-cms/files/Backland%20housing%20development.pdf</a>	
	<b>Consultation Responses</b>	
<b>AC2</b>	Roads – Traffic 15.05.17 & 17.05.17	
	<b>Application Drawings</b>	
<b>AC3</b>	Refused Location Plan	
<b>AC4</b>	Refused Drawings	
	<b>Further Information Relevant to Assessment</b>	
<b>AC5</b>	Site Photographs	
<b>AC6</b>	Decision Notice	

	<b>Supporting information from Applicant</b>	
<b>AC7</b>	Images	
<b>AC8</b>	Design Statement	
<b>AC9</b>	Reasons for Appeal	
<b>AC10</b>	Highfield Place Appeal Decision	

**Angus Council**

<b>Application Number:</b>	17/00369/FULL
<b>Description of Development:</b>	Erection of a New Dwellinghouse in the Garden Ground Re-Application
<b>Site Address:</b>	17 Sidlaw Terrace Birkhill Dundee DD2 5PY
<b>Grid Ref:</b>	335005 : 734294
<b>Applicant Name:</b>	Mr J. Devlin

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

The application site consists of the front garden area of the existing residential property at number 17 Sidlaw Terrace. The existing property and remaining garden area is located to the north and Birkhill Primary School is located beyond this. The access road at Sidlaw Terrace is located to the south. Residential properties bound the application site to the west, east and south (beyond the road). Existing mature hedging bounds the site to the west, south and east and there are a number of existing trees within the site which have been identified on the plans.

**Proposal**

The proposal is for the erection of a single dwelling house located centrally within the application site. The dwellinghouse would be 1.5 storeys in height with an integrated garage. Smooth white cement render is proposed on the walls with the roof to be finished in natural slate. An existing access to the site would be removed and a new access would be formed to the east of the proposed plot (within land in control of the applicant). Part of an existing hedge would be removed to form this access. Additional hedging would be planted to close-off the access point which is to be removed. A number of trees would be removed (mix of conifer, birch and shrubs) to facilitate the proposal and these are identified on the plan. Some additional planting appears to be proposed.

The application has not been subject of variation.

**Publicity**

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 26 May 2017 as development Contrary to Development Plan

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

**Planning History**

Application 16/00787/FULL for the Erection of a Dwellinghouse on the site was withdrawn on 18 November 2016.

**Applicant's Case**

As part of the application a Design Statement was submitted and can be summarised as follows:

- o Provided a summary of the site history and the previous withdrawn application;
- o The existing house will retain a substantial garden and the mature boundary treatments will be

- retained;
- o The new entrance proposed will serve both the existing and proposed house;
- o That the proposal being behind mature hedging will maintain the privacy and character of the west end of Sidlaw Terrace;
- o The boundary between the two houses would be formed by a 1.8m high timber fence;
- o Some of existing trees would be lost because they are dangerous and an agreed replanting scheme would be carried out;
- o The proposed house has been positioned to align with houses to the east (with ridge height being 1m lower)
- o The south elevation of the existing house and the north elevation of the proposed house would be 12.5m apart and a solid fence would give complete privacy;
- o The footprint of the house has been reduced from the previous application;
- o In terms of loss of sunlight the new house is less than that of the existing trees on the site and there would be no impacts on neighbouring houses;
- o The windows on the proposed new house would be angled at 45 degrees in order that they do not face the existing house and there can be no suggestion of overlooking.
- o Refers to Advice Note 6 and backland development and noted that the plot is 560sqm and has confirmed that they consider would meet this advice note.

### **Consultations**

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

**Angus Council - Roads** - No objections in principle. However suggested that 2.0m by 20m visibility sightlines would improve road safety but that this would significantly affect the hedge fronting the site. In terms of parking the Roads Service indicated that 3No. parking spaces are required for a new dwellinghouse and queried the existing provision proposed. Noted that additional parking could be dedicated to the shared driveway but that this could lead to neighbour disputes over obstruction of access.

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

### **Representations**

There were no letters of representation.

### **Development Plan Policies**

#### **Angus Local Development Plan 2016**

Policy DS1 : Development Boundaries and Priorities  
 Policy DS3 : Design Quality and Placemaking  
 Policy DS4 : Amenity  
 Policy TC2 : Residential Development  
 Policy PV7 : Woodland, Trees and Hedges  
 Policy PV15 : Drainage Infrastructure

#### **TAYplan Strategic Development Plan**

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

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

### **Assessment**

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

The application site is located within a development boundary and is not allocated or identified for development in the Angus Local Development Plan (ALDP). Policy DS1 of the ALDP states that proposal on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP. Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site.

Policy TC2 relates to proposals for residential development. The proposal would be compatible with established and proposed land uses in the immediate area as it would be residential in nature. The site is not protected or allocated for another use. The proposed residential unit could provide a satisfactory residential environment. A single house at this location would not require provision of affordable housing.

However, Policy TC2 also requires proposal for new housing development to be consistent with the character and pattern of development in the area. Policy DS3 Design Quality and Placemaking indicates that development proposals should deliver a high design standard and draw upon those aspects of landscape and townscape that contribute positively to the character and sense of place of the area. It further indicates that development proposals should fit with the character and pattern of development in the surrounding area.

In this regard, there is a fairly clear pattern of development in the surrounding area; houses front the streets and the backs of houses face each other. In Sidlaw Terrace houses typically follow that pattern, with fronts facing the roadway and backs facing the rear elevation of the houses they back onto. The eastern end of the street has houses with a common building line that sit in the region of 7 metres from the roadway. The houses to the south of the street in this area have small rear gardens and back onto properties that front The Lane to the south. The houses to the north have long rear gardens and back onto properties in Keithhall Gardens to the north. Towards the west of the street the houses on the north of the street (including the application site) occupy larger plots. The houses front the street but are set back from it at a distance close to 27 metres. The front garden areas are bound by hedges and accommodate trees that create a green space and provide character within the townscape.

The proposal would see a new house built in the front garden of the dwelling at 17 Sidlaw Terrace. It would be on a similar building line to the houses to the east and it would face the street. However, it would sit immediately in front of the existing house at No. 17 and the front windows of that house would directly face the rear elevation of the proposed house. It would create a tandem or backland style of housing that does not respect the existing pattern of development and that is not characteristic of the area. The proposal would involve the removal of the majority of trees that currently occupy the site. The provision of the visibility splay required by the Roads Service would require the removal of much of the existing boundary hedge. The loss of the trees and hedging would detract from the amenity and character of the area.

In terms of amenity, Policy DS4 states that all proposed development must have full regard to opportunities for maintaining and improving environmental quality. Advice Note 14 indicates that proposals should respect the character of the area. Advice Note 6 which relates to Backland Housing Development states that windows of habitable rooms should not be placed directly opposite or inclined horizontally to those habitable rooms in existing houses unless there is a distance of approximately 20 metres between both dwellings. The window distances between the existing and proposed dwellinghouse to the north are between 12.5 and 13.5 metres. Whilst the design of the proposed house seeks to minimise impacts associated with loss of privacy, a new house located directly in-front of the main windows of an existing dwelling at the distance involved cannot be considered to maintain or improve environmental quality. Similarly, the loss of the existing trees and hedging would not be consistent with that policy requirement.

The Roads Service has raised no objection in principle and issues could be addressed by planning conditions. Scottish Water has not commented at the time of writing this report. The proposal does not give rise to any other significant issues that could not be addressed by planning condition.

In addition, it is relevant to note that the garden areas of the houses to the east of the application site are reasonably large. Approval of this application could lead to proposals for backland development within the rear gardens (or combined rear gardens) of those properties. Such development would be difficult to

resist if this application was approved and would seriously erode the character and amenity of the area.

It is also relevant to note that the Council has resisted other proposals that would create backland development in this area. A proposal at 11 Highfield Place was refused by the Development Standards Committee (Report 709/07) and subsequently dismissed on appeal. In that case the Appeal Reporter commented that *'I find that the introduction of backland development as proposed in this case would adversely affect the character of the surrounding area and result in a significant loss of amenity.'*

In summary, the proposal would not respect the pattern or character of development in the area. It would require the removal of hedging and trees that contribute to the character and amenity of the area. It would establish a precedent for further tandem/backland development that would be seriously detrimental to the character and amenity of the area. On this basis the proposal is contrary to development plan policy. There are no material considerations that justify approval of planning permission contrary to the development plan.

### **Human Rights Implications**

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

### **Equalities Implications**

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

### **Decision**

The application is Refused

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

1. That the application is contrary to Policies DS1, DS3, DS4, TC2 and PV7 of the Angus Local Development Plan 2016 as it would result in a form of tandem development that is not consistent with the character and pattern of development in the surrounding area and as it would result in the loss of trees and hedging that contribute positively to the character and amenity of the area which would be detrimental to environmental quality.
2. That the proposal, if approved, would establish a precedent or further tandem or backland development in the area which would adversely affect the character of the surrounding area and result in a significant loss of amenity.

Case Officer: James Wright  
Date: 03 July 2017

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

#### **Angus Local Development Plan 2016**

Policy DS1 : Development Boundaries and Priorities  
All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous\* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

\*Sharing an edge or boundary, neighbouring or adjacent

#### Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- o Distinct in Character and Identity: Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- o Safe and Pleasant: Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- o Well Connected: Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.
- o Resource Efficient: Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

#### Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:



- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

#### Policy TC2 : Residential Development

All proposals for new residential development\*, including the conversion of non-residential buildings must:

- o be compatible with current and proposed land uses in the surrounding area;
- o provide a satisfactory residential environment for the proposed dwelling(s);
- o not result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and
- o include as appropriate a mix of house sizes, types and tenures and provision for affordable housing in accordance with Policy TC3 Affordable Housing.

Within development boundaries Angus Council will support proposals for new residential development where:

- o the site is not allocated or protected for another use; and
- o the proposal is consistent with the character and pattern of development in the surrounding area.

In countryside locations Angus Council will support proposals for the development of houses which fall into at least one of the following categories:

- o retention, renovation or acceptable replacement of existing houses;
- o conversion of non-residential buildings;
- o regeneration or redevelopment of a brownfield site that delivers significant visual or environmental improvement through the removal of derelict buildings, contamination or an incompatible land use;
- o single new houses where development would:
  - o round off an established building group of 3 or more existing dwellings; or
  - o meet an essential worker requirement for the management of land or other rural business.
- o in Rural Settlement Units (RSUs)\*\*, fill a gap between the curtilages of two houses, or the curtilage of one house and a metalled road, or between the curtilage of one house and an existing substantial building such as a church, a shop or a community facility; and
- o in Category 2 Rural Settlement Units (RSUs), as shown on the Proposals Map, gap sites (as defined in the Glossary) may be developed for up to two houses.

Further information and guidance on the detailed application of the policy on new residential development in countryside locations will be provided in supplementary planning guidance, and will address:

- o the types of other buildings which could be considered suitable in identifying appropriate gap sites for the development of single houses in Category 1 Rural Settlement Units, or for the development of up to two houses in Category 2 Rural Settlement Units.
- o the restoration or replacement of traditional buildings.
- o the development of new large country houses.

## ANGUS COUNCIL

### COMMUNITIES PLANNING

#### CONSULTATION SHEET

PLANNING APPLICATION NO

17/00369/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

15	05	17
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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**



# Memorandum

Communities Directorate – Technical & Property Services  
Roads & Transport Business Unit

TO: HEAD OF PLANNING AND PLACE

FROM: HEAD OF TECHNICAL & PROPERTY SERVICES

YOUR REF:

OUR REF: JDH/AG/JB TD1.3

DATE: 17 MAY 2017

SUBJECT: **PLANNING APPLICATION REF. NO. 17/00369/FULL – PROPOSED ERECTION OF A NEW HOUSE IN THE GARDEN GROUND AT 17 SIDLAW TERRACE BIRKHILL FOR MR J DEVLIN**

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I refer to the above planning application.

The application is for a new dwelling house to be erected in the garden ground of the property at 17 Sidlaw Terrace, Birkhill.

The road at Sidlaw Terrace is split into two distinct sections; the east section is public and the west section is private. The site is located on the private length of the road.

## Access

This part of the road has no footways and the garden ground is bounded by mature hedging which obstructs the view for drivers exiting the site. The proposal involves the creation of a new, shared access for the existing and proposed dwellings. The creation of visibility sightlines of 2.0 by 20 metres would improve road safety at the locus. However, this would affect significantly the hedge fronting the site.

## Parking

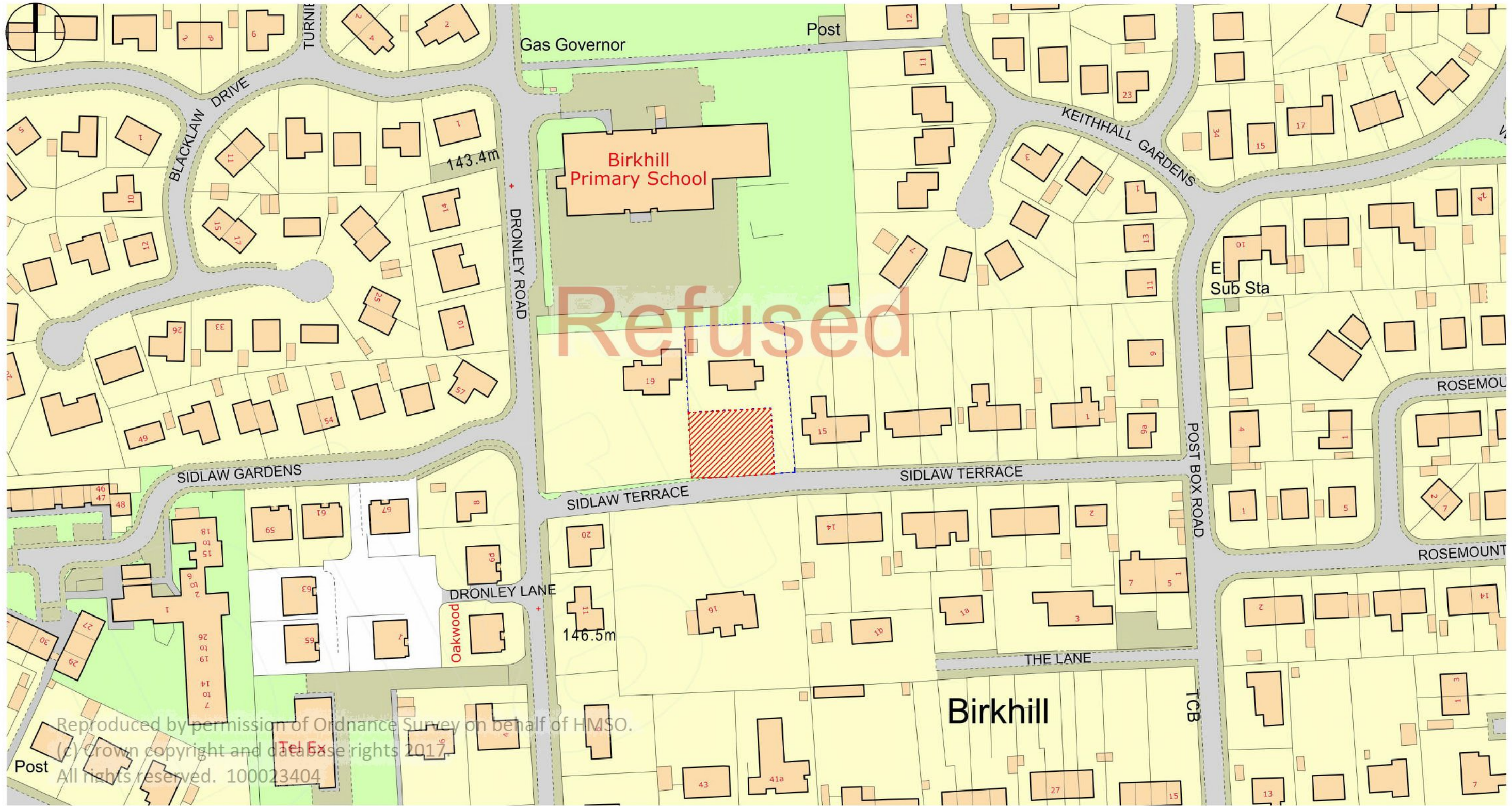
In accordance with the council's parking standards, a minimum of 3 car parking spaces is required for the new dwelling house. The application Site Plan shows a house and integral garage with a single parking space in front. Clearly, additional parking could be dedicated to the shared driveway, however this is likely to lead to neighbourly disputes and arguments over obstruction of the access. Further, no details are provided on the internal dimension of the garage. These must be at least 3 metres by 7 metres for the garage to count towards the parking provision.

## Conclusion

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I do not object to the principle of the proposed development but in consideration of my above comments, I would request that further drawings be provided showing sightlines at the new access and parking to the council's standards before making my final comments on the application.

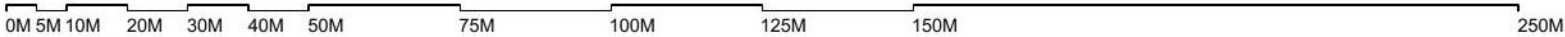
I trust the above comments are of assistance but should you have any further queries, please contact Adrian Gwynne extension 3393.

*p.p.*



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**LOCATION PLAN**      **SITE AREA = 560M<sup>2</sup>**  
 SCALE 1:1250



Job Title:  
 PROPOSED DWELLING IN GARDEN GROUND,  
 17 SIDLAW TERRACE, DUNDEE, DD2 5PY

Drawing Title:  
 LOCATION PLAN

Dwg No.  
 NEW.1250.01

Date:  
 AUGUST 2016

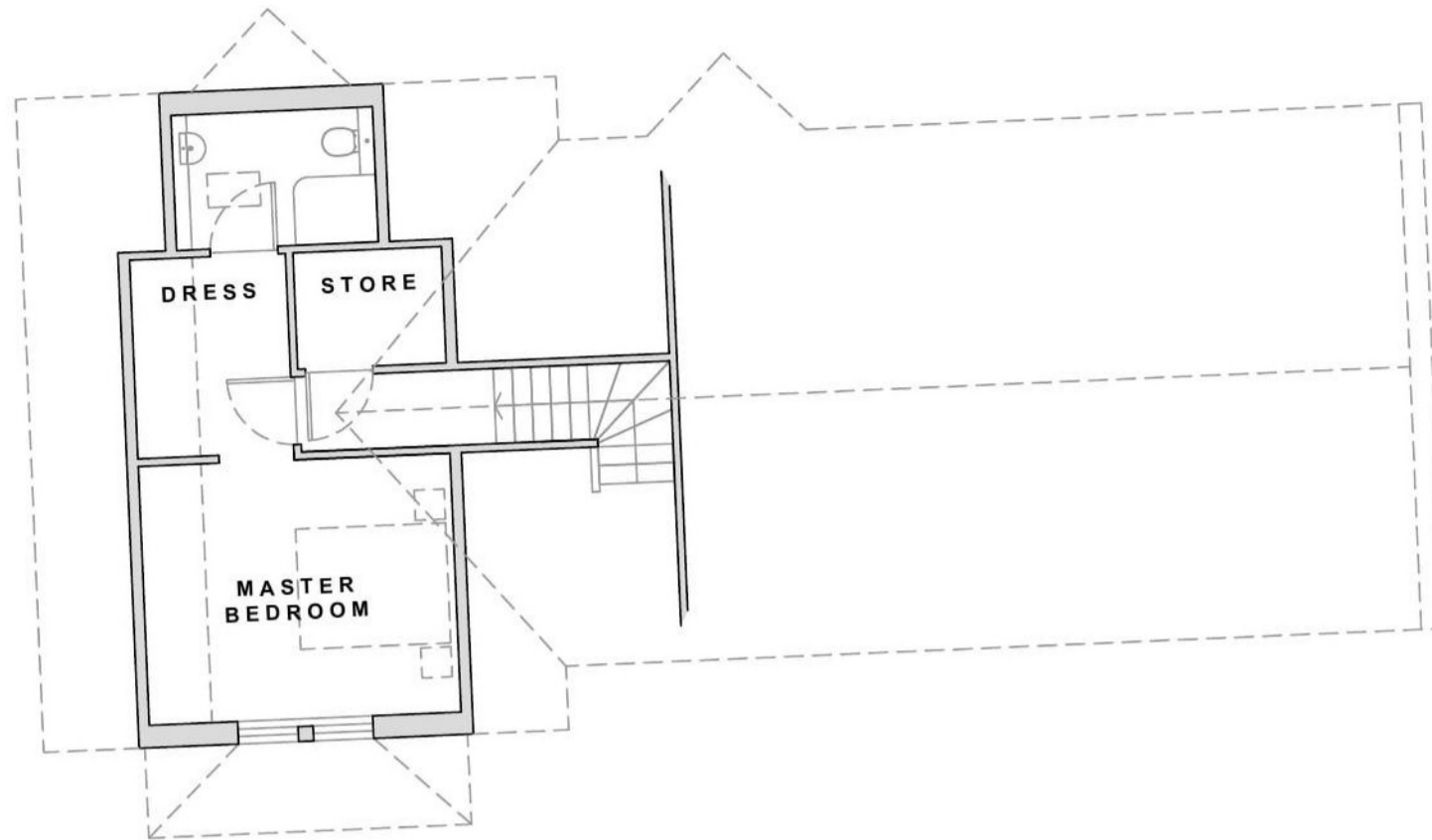
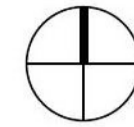
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Rev.	Date	Description	Initial

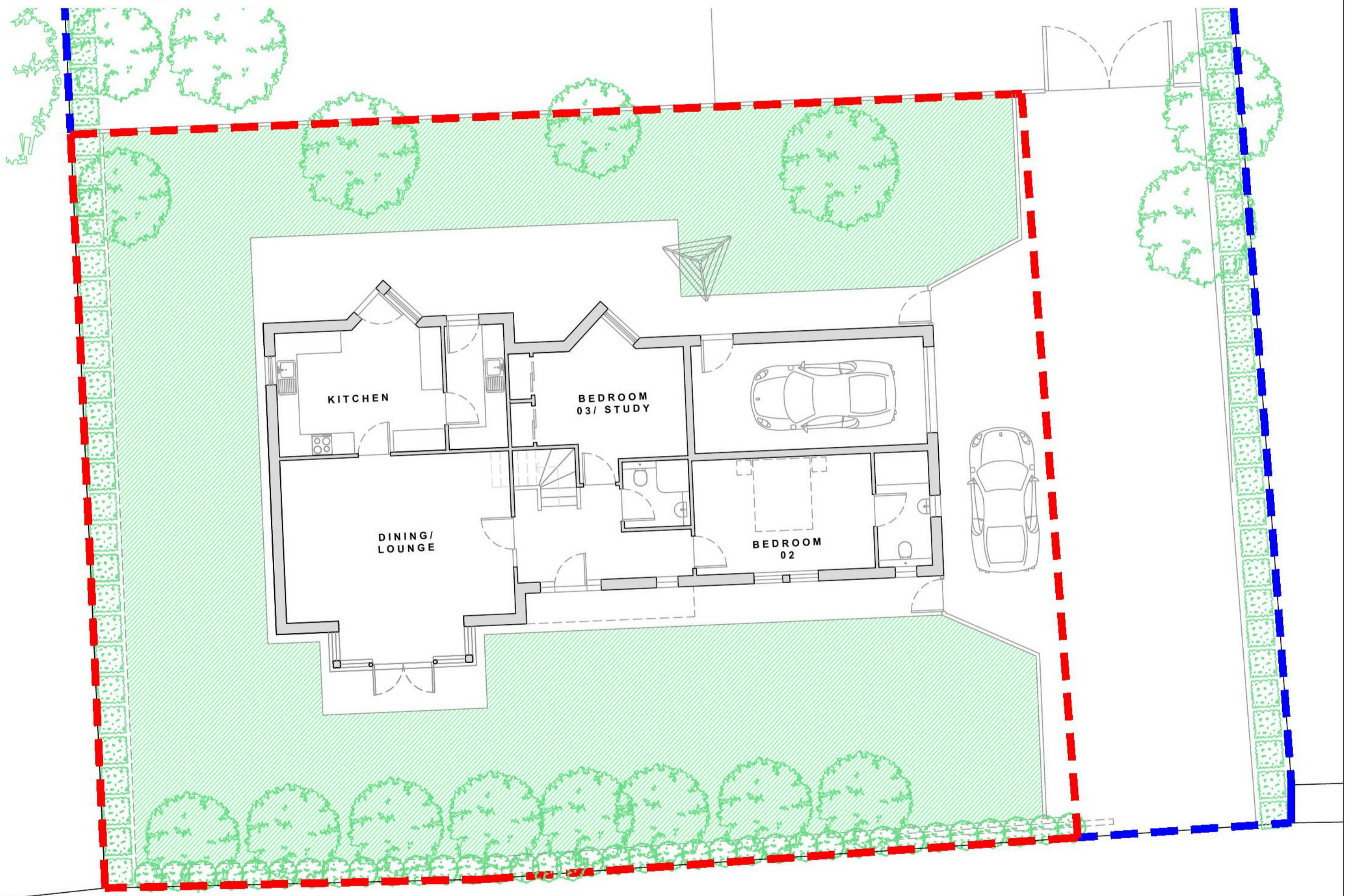

**Peter Inglis**  
 architects

Peter Inglis Architects  
 Prospect III Unit 21  
 Gemini Crescent  
 Dundee  
 DD2 1SW  
 Telephone 01382 562067

# Refused

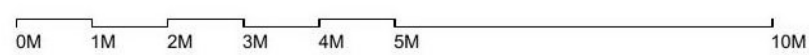


FIRST FLOOR PLAN  
SCALE 1:100



SIDLAW TERRACE

GROUND FLOOR PLAN  
SCALE 1:100



Job Title: PROPOSED DWELLING IN GARDEN GROUND, 17 SIDLAW TERRACE, DUNDEE, DD2 5PY	Dwg No: 1001.100.01	Rev: A	GENERAL REVISIONS	SR
Drawing Title: PROPOSED GROUND FLOOR PLAN AND FIRST FLOOR PLAN	Date: AUGUST 2016	Drawn: GB		
Scale: 1:100 @ A2			Peter Inglis Architects Project: 10 Line 21 Gentry Crescent Dundee DD2 1SW Telephone 01382 562067	

# Refused



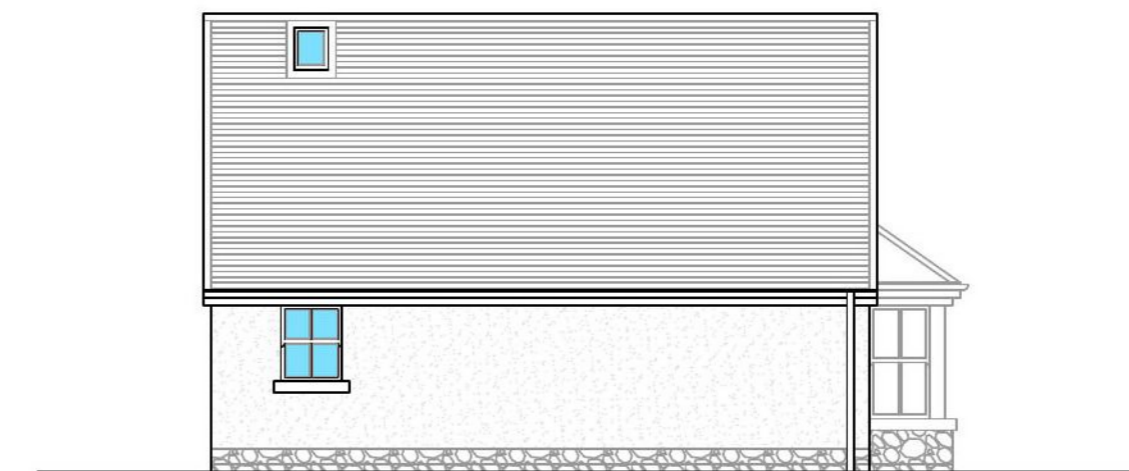
**NORTH ELEVATION**  
SCALE 1:100



**WEST ELEVATION**  
SCALE 1:100



**SOUTH ELEVATION**  
SCALE 1:100



**EAST ELEVATION**  
SCALE 1:100

**FINISHING MATERIALS**

EXTERNAL WALLS: SMOOTH CEMENT RENDER, PAINTED FINISH, COLOUR WHITE WITH GUILLOTINED NATURAL STONE BASE COURSE AND FEATURE PANELS.

ROOF & RAINWATER GOODS: ROOF TO BE FINISHED IN NATURAL SLATE WITH LEAD FLASHINGS. PVCu RAINWATER GOODS, COLOUR DARK BROWN. TIMBER SOFFITS & FASCIAS, STAINED FINISH, DARK BROWN.

EXTERNAL WINDOWS & DOORSETS: TIMBER FRAMED WINDOWS & EXTERNAL DOORSETS, STAINED FINISH, DARK BROWN WITH DOUBLE GLAZED UNITS. FEATURE STONE LINTELS AND CILLS. VELUX CENTRE-PIVOT ROOFLIGHT WITH PROPRIETARY FLASHING KIT FOR SLATES, COLOUR DARK GREY.

HARDSTANDING: MARSHALLS DRIVSEETT PRIORA ARGENT PERMEABLE BLOCK PAVING, COLOUR LIGHT.



Job Title PROPOSED DWELLING IN GARDEN GROUND, 17 SIDLAW TERRACE, DUNDEE, DD2 5PY	Dwg No. 1001.100.02	Rev. A	<table border="1"> <thead> <tr> <th>Rev.</th> <th>Date</th> <th>GENERAL REVISIONS Description</th> <th>GB Initial</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>2017.03.20</td> <td>GENERAL REVISIONS</td> <td>GB</td> </tr> </tbody> </table>	Rev.	Date	GENERAL REVISIONS Description	GB Initial	A	2017.03.20	GENERAL REVISIONS	GB
Rev.	Date	GENERAL REVISIONS Description		GB Initial							
A	2017.03.20	GENERAL REVISIONS		GB							
Drawing Title PROPOSED ELEVATIONS	Date AUGUST 2016	Drawn GB									
	Scale 1:100 @ A2										













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

PLANNING PERMISSION REFUSAL  
REFERENCE : 17/00369/FULL

To **Mr J. Devlin**  
**c/o Peter Inglis Architects**  
**Prospect III**  
**Gemini Crescent**  
**Dundee**  
**DD2 1SW**

With reference to your application dated 9 May 2017 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

**Erection of a New Dwellinghouse in the Garden Ground Re-Application at 17 Sidlaw Terrace Birkhill Dundee DD2 5PY for Mr J. Devlin**

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

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

1. That the application is contrary to Policies DS1, DS3, DS4, TC2 and PV7 of the Angus Local Development Plan 2016 as it would result in a form of tandem development that is not consistent with the character and pattern of development in the surrounding area and as it would result in the loss of trees and hedging that contribute positively to the character and amenity of the area which would be detrimental to environmental quality.
2. That the proposal, if approved, would establish a precedent for further tandem or backland development in the area which would adversely affect the character of the surrounding area and result in a significant loss of amenity.

**Amendments:**

The application has not been subject of variation.

Dated this **6 July 2017**

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

## Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

You have now received your Decision Notice. This guidance note sets out important information regarding appealing or reviewing your decision. There are also new requirements in terms of notifications to the Planning Authority and display notices on-site for certain types of application. You will also find details on how to vary or renew your permission.

**Please read the notes carefully to ensure effective compliance with the new regulations.**

### DURATION

This permission will lapse 3 years from the date of this decision, unless there is a specific condition relating to the duration of the permission or development has commenced by that date.

## PLANNING DECISIONS

### Decision Types and Appeal/Review Routes

The 'decision type' as specified in your decision letter determines the appeal or review route. The route to do this is dependent on the how the application was determined. Please check your decision letter and choose the appropriate appeal/review route in accordance with the table below. Details of how to do this are included in the guidance.

Determination Type	What does this mean?	Appeal/Review Route
<b>Development Standards Committee/Full Council</b>	National developments, major developments and local developments determined at a meeting of the Development Standards Committee or Full Council whereby relevant parties and the applicant were given the opportunity to present their cases before a decision was reached.	<b>DPEA (appeal to Scottish Ministers)</b> – <b>See details on attached Form 1</b>
<b>Delegated Decision</b>	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	<b>Local Review Body –</b> <b>See details on attached Form 2</b>
<b>Other Decision</b>	All decisions other than planning permission or approval of matters specified in condition. These include decisions relating to Listed Building Consent, Advertisement Consent, Conservation Area Consent and Hazardous Substances Consent.	<b>DPEA (appeal to Scottish Ministers)</b> – <b>See details on attached Form 1</b>

**Notification of initiation of development (NID)**

Once planning permission has been granted and the applicant has decided the date they will commence that development they must inform the Planning Authority of that date. The notice must be submitted before development commences – failure to do so would be a breach of planning control. The relevant form is included with this guidance note.

**Notification of completion of development (NCD)**

Once a development for which planning permission has been given has been completed the applicant must, as soon as practicable, submit a notice of completion to the planning authority. Where development is carried out in phases there is a requirement for a notice to be submitted at the conclusion of each phase. The relevant form is included with this guidance note.

**Display of Notice while development is carried out**

For national, major or 'bad neighbour' developments (such as public houses, hot food shops or scrap yards), the developer must, for the duration of the development, display a sign or signs containing prescribed information.

The notice must be in the prescribed form and:-

- displayed in a prominent place at or in the vicinity of the site of the development;
- readily visible to the public; and
- printed on durable material.

A display notice is included with this guidance note.

Should you have any queries in relation to any of the above, please contact:

Angus Council  
Communities  
Planning  
County Buildings  
Market Street  
Forfar  
Angus  
DD8 3LG

Telephone 01307 473212 / 473207 / 473335

E-mail: [planning@angus.gov.uk](mailto:planning@angus.gov.uk)

Website: [www.angus.gov.uk](http://www.angus.gov.uk)



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

### The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 1

*Notification to be sent to applicant on refusal of planning permission  
or on the grant of permission subject to conditions decided by Angus Council*

1. If the applicant is aggrieved by the decision of the planning authority-
  - a) to refuse permission for the proposed development;
  - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers to review the case under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of appeal should be addressed to Directorate for Planning & Environmental Appeals, 4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR. Alternatively you can submit your appeal directly to DPEA using the national e-planning web site <https://eplanning.scotland.gov.uk>.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



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

### The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 2

*Notification to be sent to applicant on refusal of planning permission  
or on the grant of permission subject to conditions decided through  
Angus Council's Scheme of Delegation*

1. If the applicant is aggrieved by the decision of the planning authority-
  - a) to refuse permission for the proposed development;
  - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of review should be addressed to Committee Officer, Angus Council, Resources, Legal & Democratic Services, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

A Notice of Review Form and guidance can be found on the national e-planning website <https://eplanning.scotland.gov.uk>. Alternatively you can return your Notice of Review directly to the local planning authority online on the same web site.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



**COMMUNITIES Your experience with Planning**

Please indicate whether you agree or disagree with the following statements about your most recent experience of the Council's handling of the planning application in which you had an interest.

**Q.1 I was given the advice and help I needed to submit my application/representation:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.2 The Council kept me informed about the progress of the application that I had an interest in:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.3 The Council dealt promptly with my queries:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.4 The Council dealt helpfully with my queries:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.5 I understand the reasons for the decision made on the application that I had an interest in:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.6 I feel that I was treated fairly and that my view point was listened to:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**OVERALL SATISFACTION:** Overall satisfaction with the service: .....

**Q.7 Setting aside whether your application was successful or not, and taking everything into account, how satisfied or dissatisfied are you with the service provided by the council in processing your application?**

<b>Very satisfied</b>	<b>Fairly satisfied</b>	<b>Neither Satisfied nor Dissatisfied</b>	<b>Fairly Dissatisfied</b>	<b>Very Dissatisfied</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

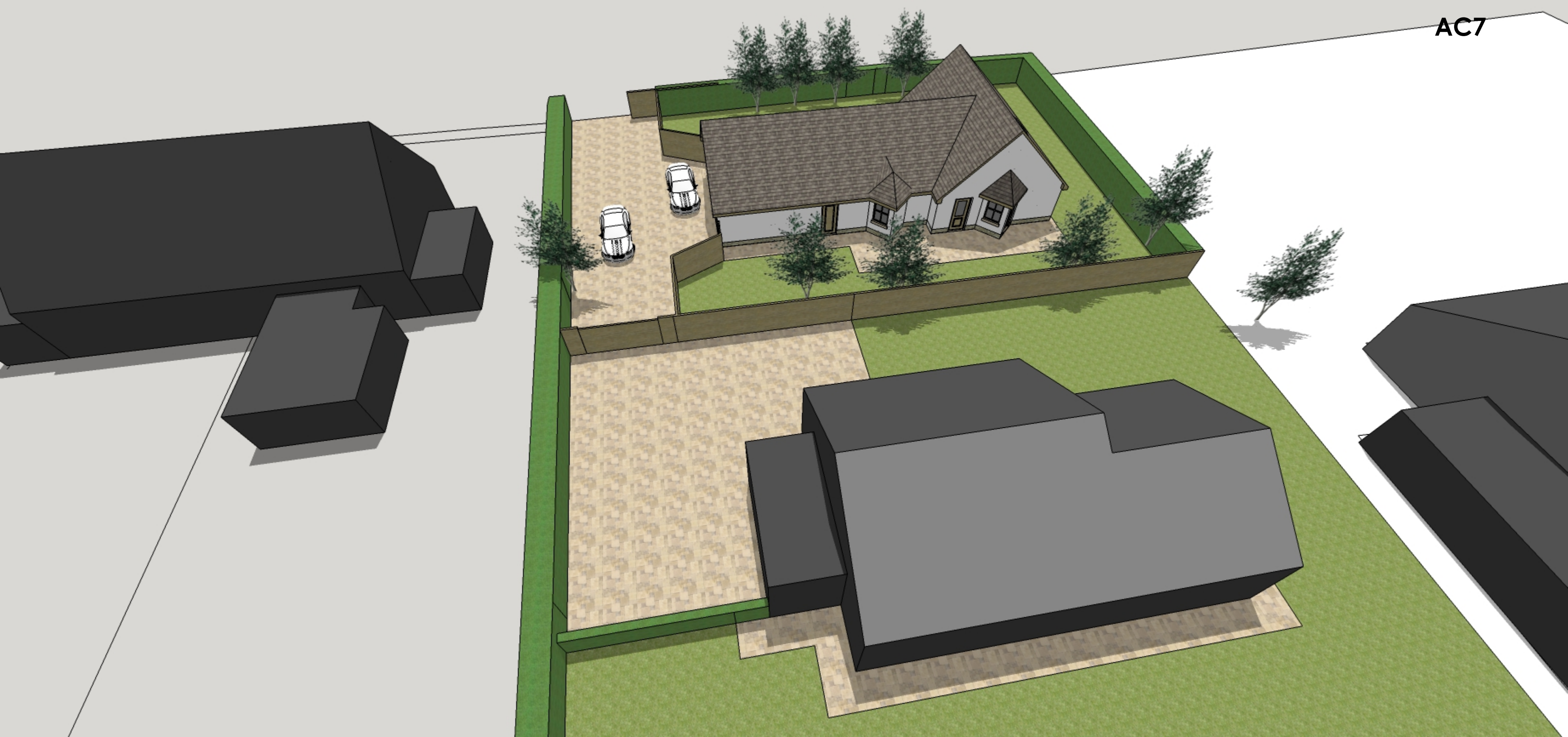
**OUTCOME:** Outcome of the application:

**Q.8 Was the application that you had an interest in:-**

Granted Permission/Consent	<input type="checkbox"/>	Refused Permission/Consent	<input type="checkbox"/>	Withdrawn	<input type="checkbox"/>
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**Q.9 Were you the:-** Applicant  Agent  Third Party objector who made a representation

Please complete the form and return in the pre-paid envelope provided.  
Thank you for taking the time to complete this form.







AGY

**PROPOSED HOUSE IN THE GROUNDS OF 17 SIDLAW TERRACE, BIRKHILL.****Summary.**

This application seeks to erect a new dwelling in the grounds of 17 Sidlaw Terrace, Birkhill and is a re-submission of an application that was withdrawn.

The existing house would still retain a substantial garden and the mature, natural boundary treatments to the existing garden would be retained, thus preserving the amenity of both the new house and the existing houses in this quiet neighbourhood.



*Sidlaw Terrace showing the existing access to 17 Sidlaw Terrace on the left hand side.*

**Site.**

The site is accessed off the private road at the west end of Sidlaw Terrace. There are double gates before the existing driveway to No. 17 and it is proposed that this access is dispensed with and the hedge facing Sidlaw Terrace is planted to infill the gap. The new entrance, at the east end of the plot, will serve both the existing and the new house. The east boundary is formed with a Leylandii hedge and the west boundary is a beech hedge. The mature garden is grassed with occasional planted borders, shrubs and trees. The existing house sits towards the north end of the plot.



*17 Sidlaw Terrace – existing house.*

There are two storey villas to the west and south, each sitting behind mature hedge boundaries.

To the east there are 1.5 storey houses with steeply pitched roofs facing Sidlaw Terrace and these houses sit considerably further forward on their plots than does the house at No. 17.

**Proposal.**



*Proposed new house, complete with slate roof, feature stone bay window.*

The proposal is to erect a new, 1.5 storey house in the south portion of the garden of 17 Sidlaw Terrace, complete with integral garage and visitor parking space behind the substantial beech hedge which presents itself to Sidlaw Terrace. Being behind the mature hedging the new house will maintain the privacy and character of the west end of Sidlaw Terrace.

The existing house and the new house would be accessed from a new driveway at the east end of the plot and the former driveway would be abandoned, the gates removed and the driveway itself re-landscaped. The garden shed would be moved to the back garden of the existing house. There would be a mutual, sliding, wrought iron gate at the entrance to the driveway and then another set of gates before the existing house.

The boundary between the two houses would be formed with an 1800mm high close boarded timber fence which would maintain the privacy for each house.

Each house would have a garage and a visitor parking space. Both the front and back gardens of the new house would be sheltered behind either the beech hedge facing the Terrace and the new fence which would be placed behind the parking area.

The private garden areas for each house would be as follows:- existing house would have 520 sq. metres of private amenity space and the new house would have 340 sq. metres of private amenity space.

Some of the existing trees in the front garden would be lost because they are dangerous, in fact 6 no. trees have been lost due to wind damage already. The lost trees are conifers and birch. An agreed replanting scheme would be carried out. The boundary enclosures would remain intact.



*The shading effect of the existing conifers in the garden can be seen here as the shadows cover the south wall of the house and part of the patio.*



The proposed new house has been positioned to align with the houses to the east of the site, further along Sidlaw Terrace, which are 1.5 storeys high. **The ridge height of the proposed new house would be 1.00 metre lower than the houses to the east.**

The new house would have a slate roof, rendered walls with stone features and timber windows and doors.

The south elevation of the existing house and the north elevation of the new house would be a minimum of 12.5 metres apart and there would be the 1800mm high solid fence in between which would give complete privacy to each dwelling.

The distance between the two houses has been increased since the previous application.

**The new house would cover 26.8% of the plot, which complies with advice note 14.**

The footprint of the new house has been reduced from the previous application.



The following sun path diagrams illustrate that the impact of the new house is less than that of the existing trees on the site. There would be no impact on the neighbouring houses.



*Sun path on the equinox in the morning. The proposed house makes no impact on the surrounding houses.*



*Sun path on the equinox at noon.*



*Sun path on the equinox in the afternoon. Once again, there is no impact on the surrounding houses caused by this new house.*



*Sun path at the summer solstice in the morning.*



*Sun path at the summer solstice at noon.*



*Sun path at the summer solstice in the afternoon.*

The windows on the north elevation of the new house would be angled at 45 degrees in order that they do not face the existing house and there can be no suggestion of overlooking. By projecting these windows out from the façade it creates an interesting elevation. This solution also complies with Policy DS4.

**Backland Development.**

During the course of the previous application it was stated that the proposal would create ‘a backland development’ of the existing house. Advice Note 6 states that ‘*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*’.

The criteria to be met are as follows.

1. A minimum plot area of 400 square metres. This statement has previously noted that the area of the proposed plot is 560 square metres and the resultant existing house plot area is 810 square metres.
2. Siting to minimise the loss of privacy, outlook and space for adjoining residents. The houses would be bounded by mature landscaping which prevent any overlooking. The proposed boundary between the two houses is 1800 mm high which is the accepted standard height of garden fencing which affords privacy. There are no windows at the upper level which face the adjoining properties, unlike the adjoining property at 15 Sidlaw Terrace where permission was granted for a first floor extension window directly overlooking the existing house.
3. Window distances for directly opposite windows. The window distances displayed in this statement meet the distance requirement to maintain privacy.
4. 1.5 storey maximum. This proposal meets this requirement.
5. A safe access. The access on the private road meets the standards laid down by Angus Council for width and visibility.
6. A sensitive design. The materials used, the scale of the proposal and the architectural features are all in keeping with the mature quality of the neighbourhood. The fact that the new house is behind an established landscape setting, on a quiet private road, means that hardly anyone will be aware of it. The quality of the setting will not be impaired. We have stated that an agreed landscape scheme would be created, in accordance with Policy PV7 and in conjunction with the Angus Council Forestry Section.
7. The proposal must not jeopardise the overall planning of the area. This proposal is for one house which meets all of the criteria required. Recently, to the west, the former ‘Jungle Kids’ site was redeveloped for high density housing with smaller gardens and without mature landscaping. Here, there is a clear example of ‘backland development’ – one would ask which was in greater danger of ‘jeopardising’ the overall planning of the area?
8. The granting of planning permission will not be regarded as setting a precedent.

**REASONS FOR THE APPEAL.****PROPOSED NEW DWELLING IN THE GROUNDS OF 17 SIDLAW TERRACE, BIRKHILL, DUNDEE.**

The notice of refusal lists non-compliance with the following policies in the ALDP.

**Policy DS1 Development Boundaries and Priorities.** This application **did not seek an alternative use** for a site which is clearly a residential site at present. The Policy DS1 states that *proposals on sites not allocated for development 'will be supported' where they are of an appropriate scale and nature.*

**Policy DS3 Design Quality and Identity.** *Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place.* The design of the proposed house is compatible with the surrounding houses; it draws on the vocabulary of materials as used in this locality; the window / wall proportions all follow the Angus Design Guidance. Further, the setting of the house respects the mature landscape surroundings and it will not impact on the amenity of any of the neighbours because of the landscaping. The site itself is well connected for pedestrians, cyclists and private cars and is close to public transport. The garden ground available to this proposed house would also allow the use of alternative energy sources.

**Policy DS4 Amenity.** *Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.* As stated, this single storey house proposal will not impact on the amenity of any of the surrounding properties - the high hedges and boundary treatments will screen them; the air quality will not be affected by a new house, unacceptable noise and vibration levels will not result from a new house; odours, fumes and dust will not result from a new house.

**Policy TC2 Residential Development.** *Within development boundaries, Angus Council will support proposals for new residential development where (a) the site is not allocated for another use and (b) the proposal is consistent with the character and pattern of development in the surrounding area.* By continuing the residential use there is an opportunity to further bolster the thriving community in a sensitive, high quality way.

**Policy PV7 Woodland, Trees and Hedges.** *Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced.* The Applicants have created a garden of high landscape quality and they have no desire to see that amenity reduced in any way. They have managed the trees ( removals and renewals ) over the years, refreshed and re-planted as required. They have help establish the landscape that creates the atmosphere of the western end of Sidlaw Terrace. The proposed dwelling has been designed to take cognisance of the setting and preserve the quality.

.....

Garden developments. The erection of a dwelling or dwellings on parts of large gardens attached to existing dwellings is a regularly occurring form of development within towns and villages. Some of these gardens are beyond the maintenance capabilities or recreational needs of the present occupiers and well beyond present day standards for new development. Development of such sites can clearly be of financial benefit to the owners of the property without detracting from their

residential amenity, but it can also be a source of land available to meet the need for new housing within the urban area, often near to existing services and facilities, which in a modest way **can reduce the need to develop new sites on the edge of settlements**. Protecting the character of the area is an important objective.

The garden ground associated with both the existing house and the proposed house meet the criteria laid down by Angus Council.

What has been assumed here, in the notice of refusal, is that permitting this development will lower the standard of residential amenity – which is clearly not the case.

Access and public safety. An access drive serving one dwelling needs to be a minimum of 2.75m wide. To allow for access by fire engines and other service vehicles the driveway should be 3.7 metres wide; for 2 dwellings a minimum width of 4.25m is required. The driveway should also allow vehicles to turn and leave the site in a forward direction. Both the existing house and the proposed house will have a garage as well as visitor parking to meet the Angus Council standards.

Sidlaw Terrace is a private road at No. 17, with a shared pedestrian / vehicular surface. The new access would have the required visibility splay to ensure that public safety was not impaired in any way. Again, what has been assumed here is that the approval of this proposal would result in the loss of hedging, which is not the case. The existing vehicular access to No. 17 would be abandoned and the gap infilled with hedging to match. The new combined access would be formed to the east.

There have been recent housing developments in Birkhill which have not produced the quality of environment that this application could.

This proposal creates a positive contribution to the housing stock in Birkhill without visual intrusion.

P. Inglis August 2017.

Directorate for Planning and Environmental Appeals

## Appeal Decision Notice

T: 01324 696 400  
F: 01324 696 444  
E: [dpea@scotland.gsi.gov.uk](mailto:dpea@scotland.gsi.gov.uk)



Decision by Clive Christopherson, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/120/226
- Site address: 11 Highfield Place, Birkhill, Dundee, DD2 5PT
- Appeal by Mr and Mrs K Nicoll against the decision by Angus Council
- Application for outline planning permission (council reference 07/00089/OUT) dated 23 January 2007 refused by notice dated 17 August 2007
- The development proposed is the erection of a dwelling house and garage
- Application drawings: block plan and site location plan (dwg No 1175:01), possible house elevations (dated May 2007) and house type plans (dated Dec 2006) and Scotframe Laburnum house type
- Date of hearing and site visit: 29 July 2008

Date of appeal decision: 7 October 2008

### Decision

I dismiss the appeal and refuse outline planning permission.

### Preliminary

It was confirmed at the commencement of the hearing that the application drawings with respect to the appearance and the detailed positioning of the building within the site are for illustrative purposes only, however the permission sought is for a house of one and a half storeys.

### Reasoning

1. The determining issues in this appeal are: (1) whether the proposal would be consistent with the terms of the relevant policies in the development plan; and whether, notwithstanding, (2) approval or refusal is justified by other material considerations.
2. No policies of the Dundee and Angus Structure Plan (2002) have been drawn to my attention as being relevant to this proposal. The pertinent policies of the Angus Local Plan (2000) are policy H5: Small Housing Sites, together with policy ENV 5: Development in Existing Built-Up Areas.



3. The appeal site comprises a large proportion of the mature rear garden of a bungalow fronting Highfield Place. It is overlooked from adjoining residential properties to the northwest and north, their curtilages being a little elevated relative to the appeal site. I am satisfied that the combination of plot size and mature hedges would provide a house on the site with a satisfactory level of amenity other than in two respects. Firstly, the house to the northwest, 2A Post Box Road, has been built very close to the mutual boundary. Windows in this property's rear elevation face directly onto the appeal site, with the boundary hedge providing only limited privacy from those on the ground floor and none from those on the upper floor. I find this property would exert an overly dominant presence adversely affecting the amenity of any future dwelling. Secondly, I find the access to the appeal site far from satisfactory as the principal access to a separate property. It would be of considerable length and narrow width, being within a constrained space between the boundary hedge with the neighbouring house, 9 Highfield Place, and the appellants' bungalow and reduced rear garden. I conclude for these reasons the proposal would not enjoy satisfactory residential amenity and therefore fails to accord with criterion (b) of policy H5.

4. I find the site is of sufficient size to provide adequate parking space and to allow a vehicle to enter and leave the property in a forward gear. The proposed driveway would not enjoy a satisfactory sightline to the east as a consequence of both the high boundary hedge, which lies outwith the control of the appellants, and the narrow pavement. While an access with acceptable sightlines could be required by means of a negatively worded, suspensive condition, I am less convinced of the enforceability of the necessary ancillary condition, requiring the retention, thereafter, of the sightline over land outwith the appeal site and the appellants' control. The submissions during the hearing suggested an alternative access arrangement could be provided, realigning the proposed driveway's junction with Highfield Place a little to the west, to overcome this sightline difficulty. My site inspection, however, did not indicate that such an arrangement could be readily provided within the space available without adversely affecting the amenity of the existing property, particularly the outlook from one of the principal rooms. I conclude the development would not provide a satisfactory and safe access as required by criterion (e) of policy H5.

5. While details of the proposed house are not before me I consider the illustrative plans demonstrate the difficulty of positioning a house of one and a half storeys within the proposed plot such that it would not adversely affect the amenity of surrounding houses. I find it highly unlikely that the outlook from the rear of the house at 2A Post Box Road would not be unfavourably affected, such is its proximity to the mutual boundary. I also consider it improbable that an adverse impact would be avoided for either the properties to the north or the south of the appeal site, subject to the final positioning of the proposed house. I also find that the proposed access arrangement for the new house would adversely affect the amenity of the appellants' bungalow. Use of this driveway would bring pedestrians and vehicles very close to the windows of the existing house, detracting thereby from existing levels of privacy and amenity. I therefore conclude that the proposal would be in breach of criterion (f) of policy H5 which requires that proposed development maintain residential amenity and privacy of adjoining houses.



6. It follows from my conclusions in the three preceding paragraphs that the proposal does not accord with the first requirement of policy ENV 5, which requires of proposals within the built up area that they accord with other policies of the local plan. The submissions refer to cases elsewhere in Birkhill of plot sub-division but I find these almost without exception have a road frontage along one of their boundaries, thereby differing materially from the appeal site. No identical arrangement to that proposed in this case, particularly where other houses are closely positioned to site boundaries, has been brought to my attention. I find that the introduction of backland development as proposed in this case would adversely affect the character of the surrounding area and result in a significant loss of amenity. I conclude the proposal would thus fail to accord also with the second requirement of policy ENV 5.

7. As I have found the proposal to be contrary to the relevant provisions of the development plan, it is now necessary to identify whether there are any material considerations which would nevertheless justify approval.

8. The submissions refer the council's Advice Note 6: Backland Housing Development, which provides supplementary guidance as to the manner in which the council intend to deal with this type of proposal. The criteria set out in the note are similar but not identical to those provided in policy H5. For the reasons set out in the paragraphs above I am satisfied that the development of this site would be at odds with criteria 2, 5 and 6 of Advice Note 6.

9. With regard to the previous appeal decision referred to in the submissions, I am conscious that this addressed a larger proposal and predated the current circumstances of the appeal site, particularly as regards the erection of a house at 2A Post Box Road. I note however the decision clearly indicates, in paragraph 16, a strong reservation regarding the sufficiency of space between 9 Highfield Place and 11 Highfield Place, for two driveways serving two dwelling houses. I find this concern equally applies to the present case, where a single driveway would serve one house to the rear of 11 Highfield Place.

10. Finally, my attention was drawn to other nearby, recently constructed, vehicular accesses alleged to be below the council's sightline requirements. While there appeared in some of these cases a similar restriction to visibility at the property boundaries, I also noted the pavements appeared materially wider than is the case at the appeal site. However, I have no planning history for these other examples and I do not consider in any event the presence of accesses elsewhere which may be non-compliant would justify my approval of this access which would not meet the council's requirements for road safety.

11. I have taken account of all other matters raised in the submissions before and during the hearing but none carry sufficient weight to override my conclusions that the proposal is not in accordance with the adopted local plan and that planning permission should be refused.

***This is the version issued to parties on 7 October 2008***

Clive Christopherson  
Reporter

**DEVELOPMENT MANAGEMENT REVIEW COMMITTEE**

**APPLICATION FOR REVIEW**

**17 SIDLAW TERRACE, BIRKHILL**

**APPLICANT'S SUBMISSION**

- |                |                           |
|----------------|---------------------------|
| <b>ITEM 1</b>  | Notice of Review          |
| <b>ITEM 2</b>  | Appeal Statement          |
| <b>ITEM 3</b>  | Proposed Floor Plan       |
| <b>ITEM 4</b>  | Proposed Elevations       |
| <b>ITEM 5</b>  | Site Plans x 2            |
| <b>ITEM 6</b>  | House Images x 3          |
| <b>ITEM 7</b>  | Location Plan             |
| <b>ITEM 8</b>  | Design Statement          |
| <b>ITEM 9</b>  | Planning Application Form |
| <b>ITEM 10</b> | Report of Handling        |
| <b>ITEM 11</b> | Planning Advice Note 6    |
| <b>ITEM 12</b> | Decision Notice           |



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100026824-003

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

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Peter Inglis Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Peter"/>	Building Name:	<input type="text" value="Prospect III"/>
Last Name: *	<input type="text" value="Inglis"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="01382 562067"/>	Address 1 (Street): *	<input type="text" value="Gemini Crescent"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dundee"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="DD2 1SW"/>
Email Address: *	<input type="text" value="peteringlisarchitect@gmail.com"/>		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="J."/>	Building Number:	<input type="text" value="17"/>
Last Name: *	<input type="text" value="Devlin"/>	Address 1 (Street): *	<input type="text" value="Sidlaw Terrace"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Birkhill"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dundee"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DD2 5PY"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Angus Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="17 SIDLAW TERRACE"/>
Address 2:	<input type="text" value="BIRKHILL"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DUNDEE"/>
Post Code:	<input type="text" value="DD2 5PY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="734294"/>	Easting	<input type="text" value="335005"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Erection of a new house in Garden ground.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See attached statement.

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

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Plans, elevations, site plans, images of the house, location plan, Design Statement, planning application form, Refusal notice, Planning Advice note 6, Reasons for refusal paper.

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

17/00369/FULL

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

08/05/2017

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

04/07/2017

## Review Procedure

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

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

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

Can the site be clearly seen from a road or public land? \*

Yes  No

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

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## **Declare – Notice of Review**

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

Declaration Name: Mr Peter Inglis

Declaration Date: 25/08/2017

**REASONS FOR THE APPEAL.****PROPOSED NEW DWELLING IN THE GROUNDS OF 17 SIDLAW TERRACE, BIRKHILL, DUNDEE.**

The notice of refusal lists non-compliance with the following policies in the ALDP.

**Policy DS1 Development Boundaries and Priorities.** This application **did not seek an alternative use** for a site which is clearly a residential site at present. The Policy DS1 states that *proposals on sites not allocated for development 'will be supported' where they are of an appropriate scale and nature.*

**Policy DS3 Design Quality and Identity.** *Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place.* The design of the proposed house is compatible with the surrounding houses; it draws on the vocabulary of materials as used in this locality; the window / wall proportions all follow the Angus Design Guidance. Further, the setting of the house respects the mature landscape surroundings and it will not impact on the amenity of any of the neighbours because of the landscaping. The site itself is well connected for pedestrians, cyclists and private cars and is close to public transport. The garden ground available to this proposed house would also allow the use of alternative energy sources.

**Policy DS4 Amenity.** *Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.* As stated, this single storey house proposal will not impact on the amenity of any of the surrounding properties - the high hedges and boundary treatments will screen them; the air quality will not be affected by a new house, unacceptable noise and vibration levels will not result from a new house; odours, fumes and dust will not result from a new house.

**Policy TC2 Residential Development.** *Within development boundaries, Angus Council will support proposals for new residential development where (a) the site is not allocated for another use and (b) the proposal is consistent with the character and pattern of development in the surrounding area.* By continuing the residential use there is an opportunity to further bolster the thriving community in a sensitive, high quality way.

**Policy PV7 Woodland, Trees and Hedges.** *Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced.* The Applicants have created a garden of high landscape quality and they have no desire to see that amenity reduced in any way. They have managed the trees ( removals and renewals ) over the years, refreshed and re-planted as required. They have help establish the landscape that creates the atmosphere of the western end of Sidlaw Terrace. The proposed dwelling has been designed to take cognisance of the setting and preserve the quality.

.....

Garden developments. The erection of a dwelling or dwellings on parts of large gardens attached to existing dwellings is a regularly occurring form of development within towns and villages. Some of these gardens are beyond the maintenance capabilities or recreational needs of the present occupiers and well beyond present day standards for new development. Development of such sites can clearly be of financial benefit to the owners of the property without detracting from their



residential amenity, but it can also be a source of land available to meet the need for new housing within the urban area, often near to existing services and facilities, which in a modest way **can reduce the need to develop new sites on the edge of settlements**. Protecting the character of the area is an important objective.

The garden ground associated with both the existing house and the proposed house meet the criteria laid down by Angus Council.

What has been assumed here, in the notice of refusal, is that permitting this development will lower the standard of residential amenity – which is clearly not the case.

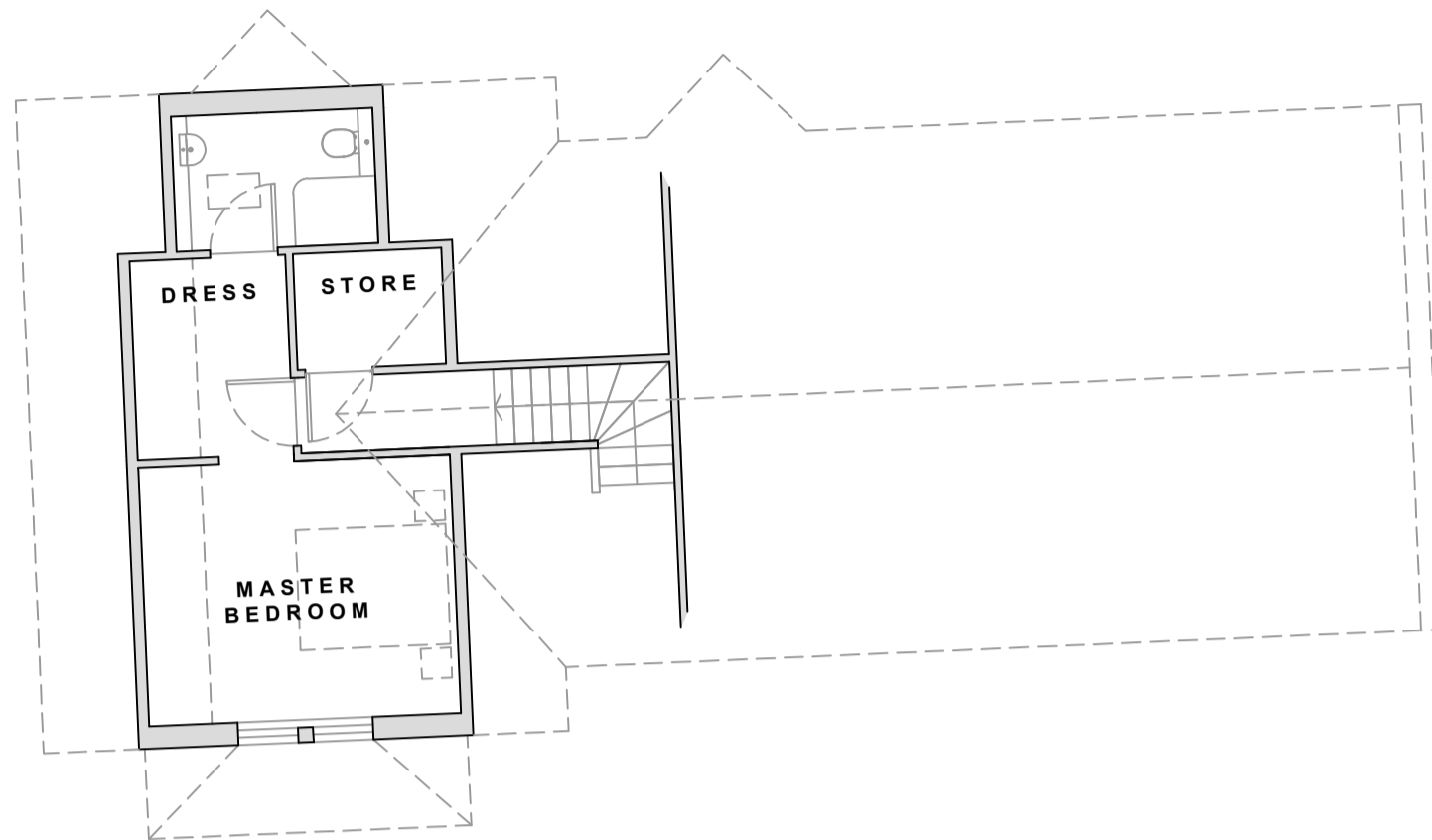
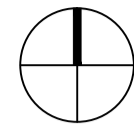
Access and public safety. An access drive serving one dwelling needs to be a minimum of 2.75m wide. To allow for access by fire engines and other service vehicles the driveway should be 3.7 metres wide; for 2 dwellings a minimum width of 4.25m is required. The driveway should also allow vehicles to turn and leave the site in a forward direction. Both the existing house and the proposed house will have a garage as well as visitor parking to meet the Angus Council standards.

Sidlaw Terrace is a private road at No. 17, with a shared pedestrian / vehicular surface. The new access would have the required visibility splay to ensure that public safety was not impaired in any way. Again, what has been assumed here is that the approval of this proposal would result in the loss of hedging, which is not the case. The existing vehicular access to No. 17 would be abandoned and the gap infilled with hedging to match. The new combined access would be formed to the east.

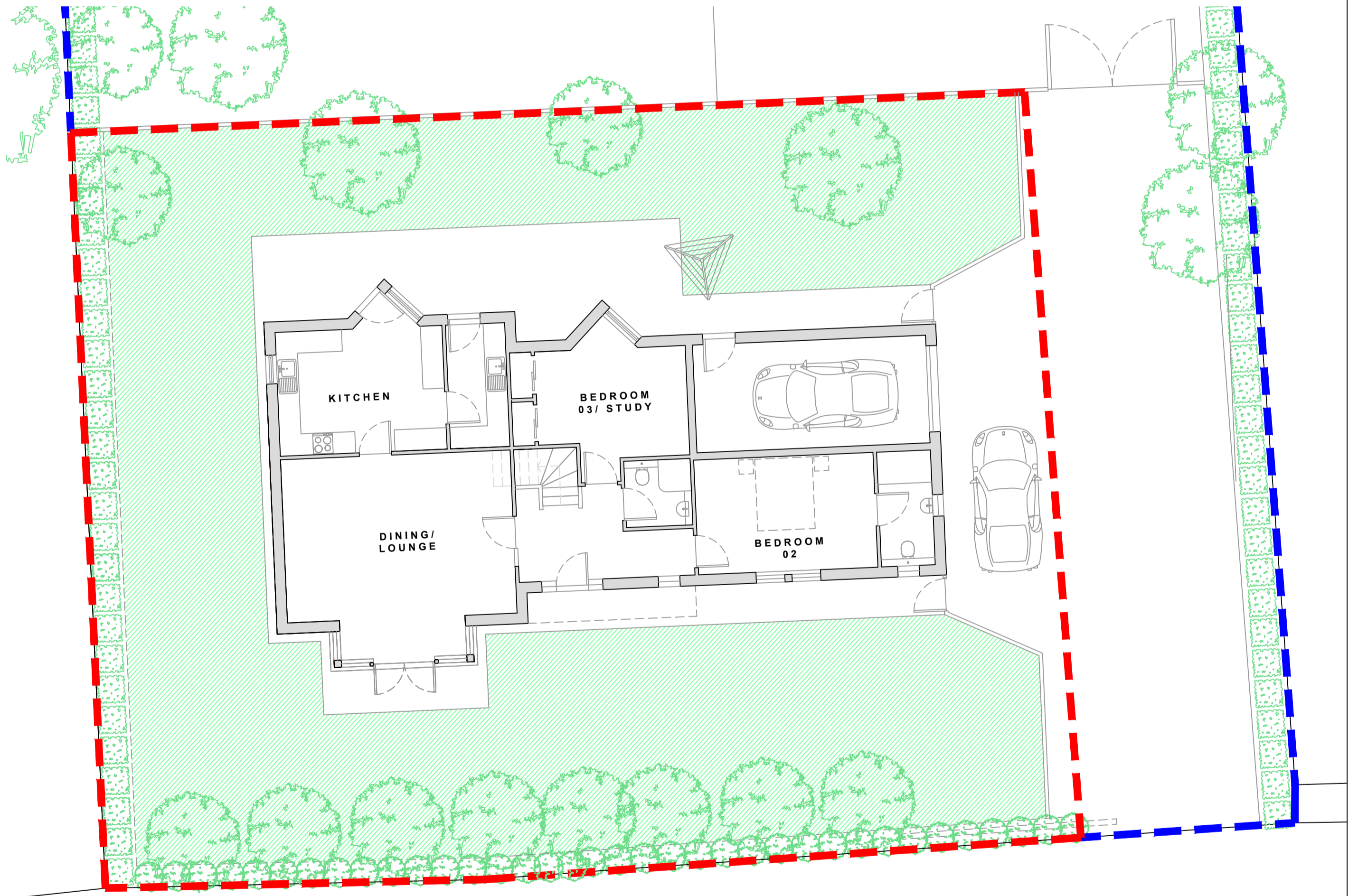
There have been recent housing developments in Birkhill which have not produced the quality of environment that this application could.

This proposal creates a positive contribution to the housing stock in Birkhill without visual intrusion.

P. Inglis August 2017.



FIRST FLOOR PLAN  
SCALE 1:100



SIDLAW TERRACE

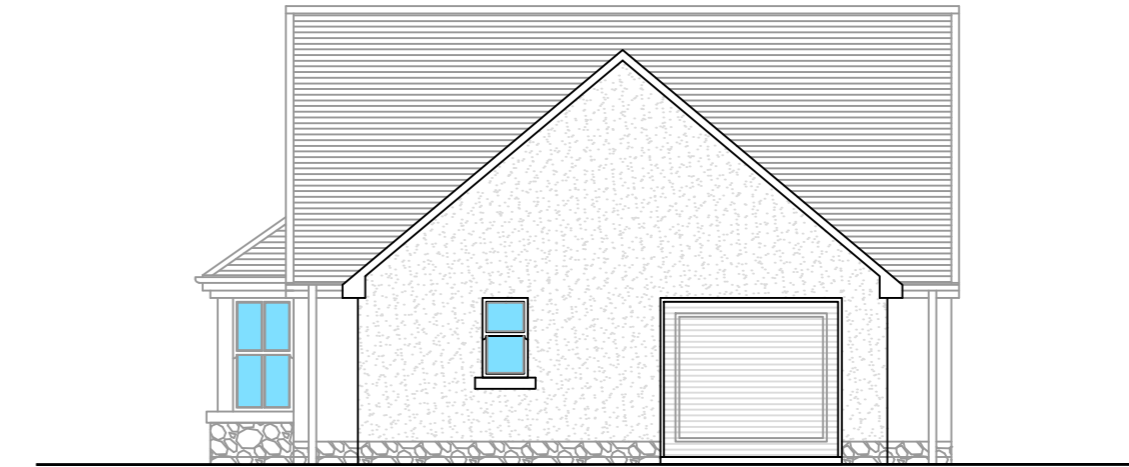
GROUND FLOOR PLAN  
SCALE 1:100



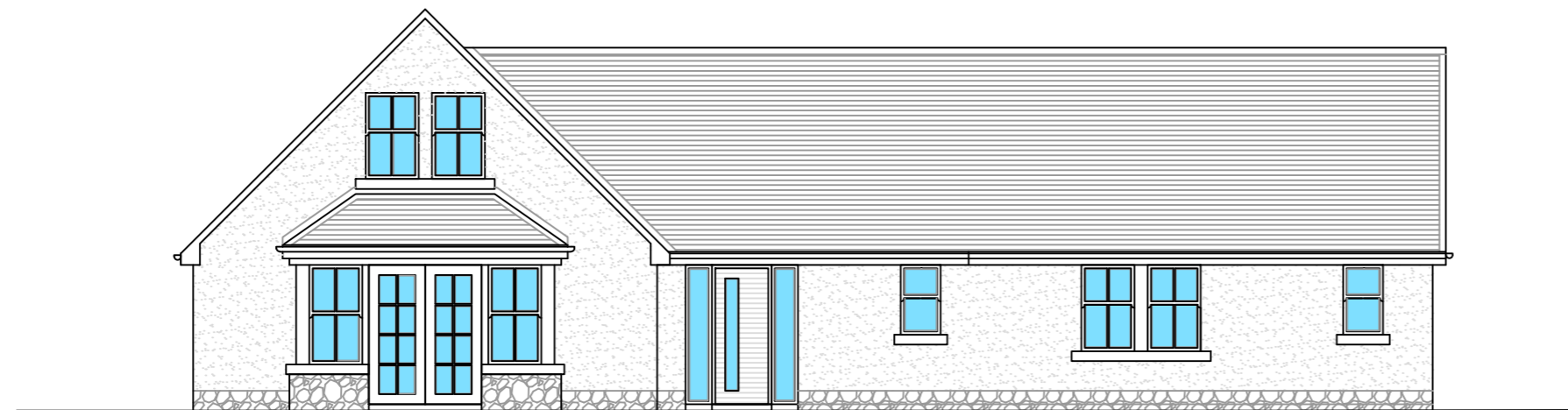
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Drawing Title: PROPOSED GROUND FLOOR PLAN AND FIRST FLOOR PLAN	Date: AUGUST 2016	Drawn: GB	
Scale: 1:100 @ A2		Peter Inglis Architects Prospect Hill Unit 21 Gemini Crescent Dundee DD2 1SW Telephone 01382 562067	



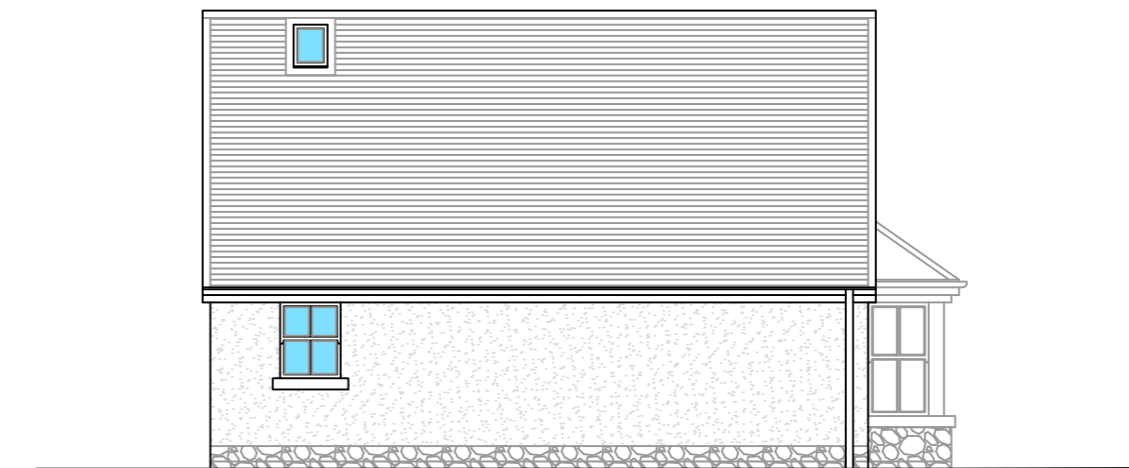
**NORTH ELEVATION**  
SCALE 1:100



**WEST ELEVATION**  
SCALE 1:100



**SOUTH ELEVATION**  
SCALE 1:100



**EAST ELEVATION**  
SCALE 1:100

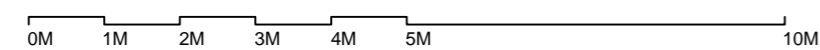
**FINISHING MATERIALS**

EXTERNAL WALLS: SMOOTH CEMENT RENDER, PAINTED FINISH, COLOUR WHITE WITH GUILLOTINED NATURAL STONE BASE COURSE AND FEATURE PANELS.

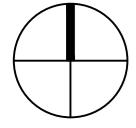
ROOF & RAINWATER GOODS: ROOF TO BE FINISHED IN NATURAL SLATE WITH LEAD FLASHINGS. PVCu RAINWATER GOODS, COLOUR DARK BROWN. TIMBER SOFFITS & FASCIAS, STAINED FINISH, DARK BROWN.

EXTERNAL WINDOWS & DOORSETS: TIMBER FRAMED WINDOWS & EXTERNAL DOORSETS, STAINED FINISH, DARK BROWN WITH DOUBLE GLAZED UNITS. FEATURE STONE LINTELS AND CILLS. VELUX CENTRE-PIVOT ROOFLIGHT WITH PROPRIETARY FLASHING KIT FOR SLATES, COLOUR DARK GREY.

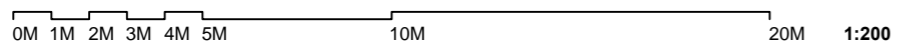
HARDSTANDING: MARSHALLS DRIVESETT PRIORA ARGENT PERMEABLE BLOCK PAVING, COLOUR LIGHT.



Job Title: PROPOSED DWELLING IN GARDEN GROUND, 17 SIDLAW TERRACE, DUNDEE, DD2 5PY	Draw No. 1001.100.02	Rev. A	<table border="0"> <tr> <td>A</td> <td>2017.03.20</td> <td>GENERAL REVISIONS</td> <td>GB</td> </tr> <tr> <td>Rev.</td> <td>Date.</td> <td>Description.</td> <td>Initial.</td> </tr> </table>	A	2017.03.20	GENERAL REVISIONS	GB	Rev.	Date.	Description.	Initial.
A	2017.03.20	GENERAL REVISIONS		GB							
Rev.	Date.	Description.		Initial.							
Drawing Title: PROPOSED ELEVATIONS	Date: AUGUST 2016	Drawn: GB									
Scale: 1:100 @ A2											



SITE PLAN  
SCALE 1:200

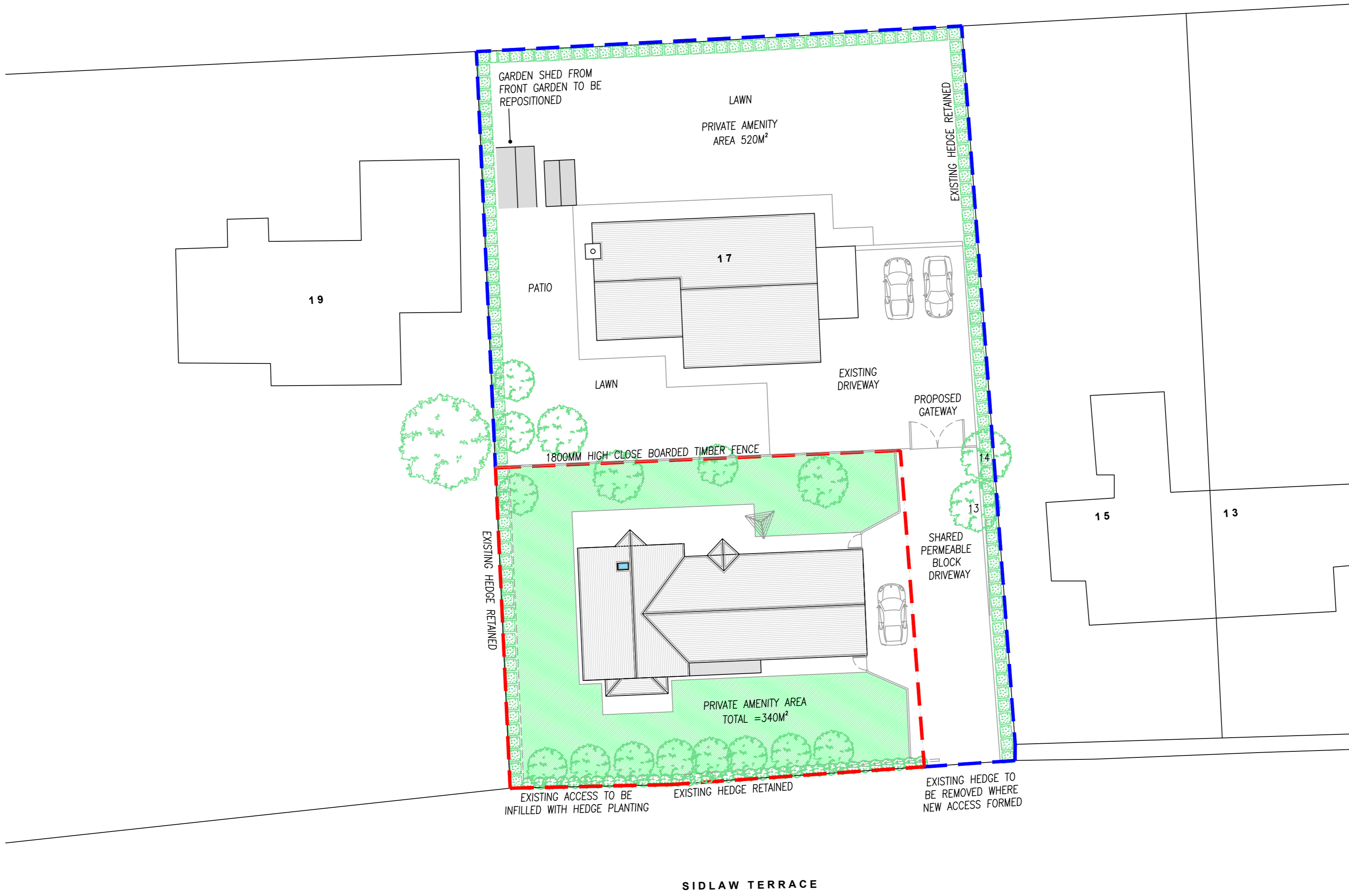
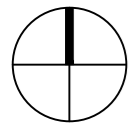


KEY

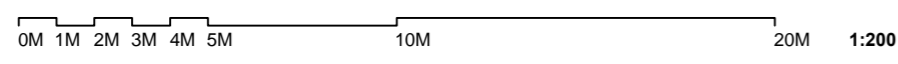
- 01. CONIFER
- 02. CONIFER
- 03. BIRCH
- 04. SHRUB
- 05. SHRUB
- 06. BIRCH
- 07. CONIFER
- 08. BLUE SPRUCE
- 09. CONIFER
- 10. CONIFER
- 11. CONIFER
- 12. CONIFER
- 13. EVERGREEN
- 14. EVERGREEN

Job Title: PROPOSED DWELLING IN GARDEN GROUND, 17 SIDLAW TERRACE, DUNDEE, DD2 5PY	Dwg No. 1001.200.01	Rev. A
Drawing Title: EXISTING SITE PLAN	Date: AUGUST 2016	Drawn: GB
	Scale: 1:200 @ A2	

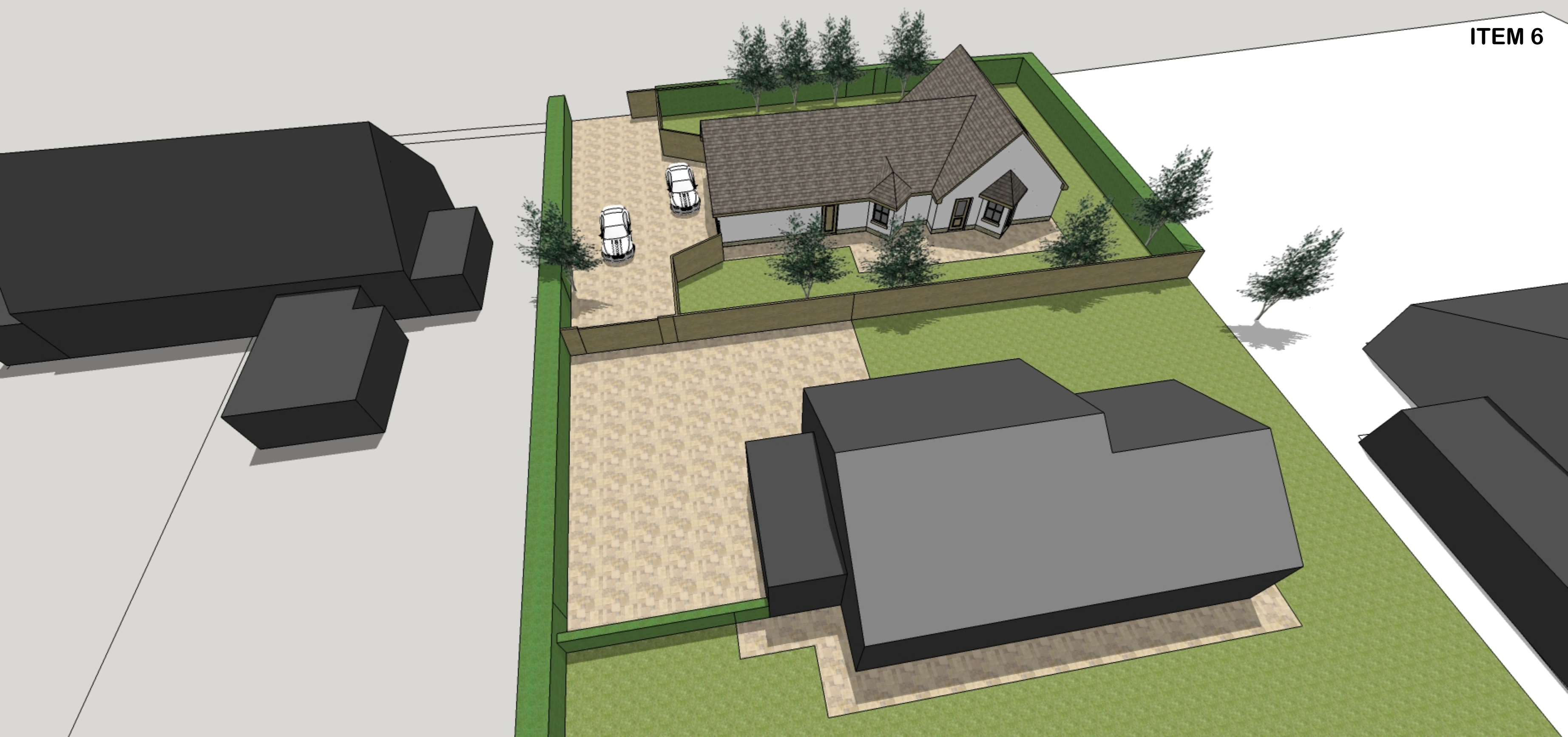
A Rev. Date	2017.05.05	GENERAL REVISIONS Description	SR Initial
<b>π Peter Inglis</b>		Peter Inglis Architects Prospect Hill Unit 21 Crescent Dundee DD2 1SW Telephone 01382 562067	



**SITE PLAN**  
SCALE 1:200



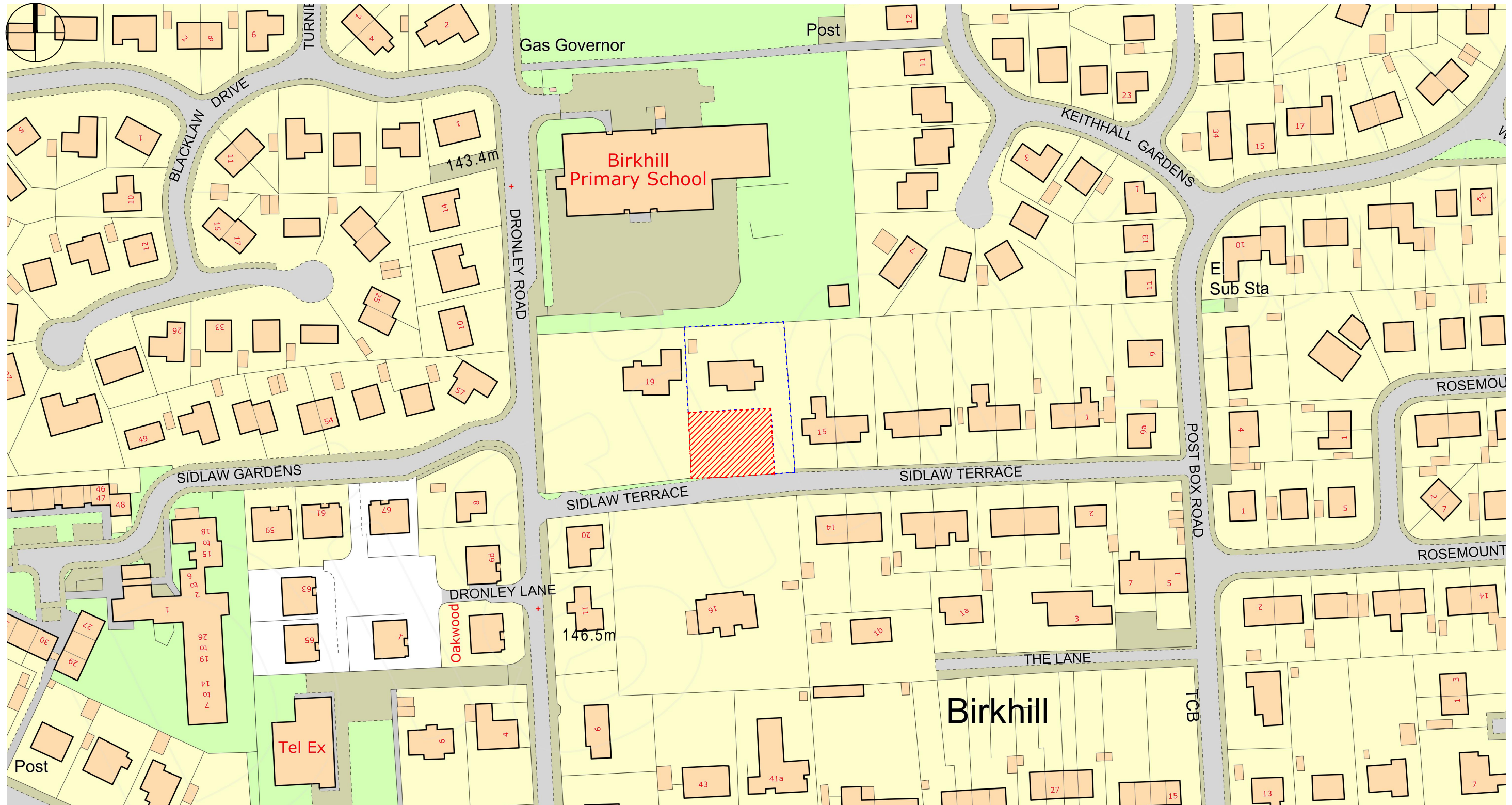
Job Title: PROPOSED DWELLING IN GARDEN GROUND, 17 SIDLAW TERRACE, DUNDEE, DD2 5PY	Draw No: 1001.200.02	Rev: A	<table border="1"> <tr> <th>Rev.</th> <th>Date</th> <th>Description</th> <th>Initial</th> </tr> <tr> <td>A</td> <td>2017.03.20</td> <td>GENERAL REVISIONS</td> <td>GB</td> </tr> </table>	Rev.	Date	Description	Initial	A	2017.03.20	GENERAL REVISIONS	GB
Rev.	Date	Description		Initial							
A	2017.03.20	GENERAL REVISIONS		GB							
Drawing Title: PROPOSED SITE PLAN	Date: AUGUST 2016	Drawn: GB									
Scale: 1:200 @ A2											





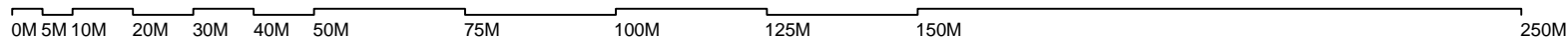







**LOCATION PLAN**  
SCALE 1:1250

**SITE AREA = 560M<sup>2</sup>**



Job Title. PROPOSED DWELLING IN GARDEN GROUND, 17 SIDLAW TERRACE, DUNDEE, DD2 5PY	Dwg No. NEW.1250.01	Rev.
Drawing Title. LOCATION PLAN	Date. AUGUST 2016	Drawn. GB
	Scale. 1:1250 @ A3	

Rev.	Date.	Description.	Initial.



Peter Inglis Architects  
Prospect III Unit 21  
Gemini Crescent  
Dundee  
DD2 1SW  
Telephone 01382 562067

## PROPOSED HOUSE IN THE GROUNDS OF 17 SIDLAW TERRACE, BIRKHILL.

### Summary.

This application seeks to erect a new dwelling in the grounds of 17 Sidlaw Terrace, Birkhill and is a re-submission of an application that was withdrawn.

The existing house would still retain a substantial garden and the mature, natural boundary treatments to the existing garden would be retained, thus preserving the amenity of both the new house and the existing houses in this quiet neighbourhood.



*Sidlaw Terrace showing the existing access to 17 Sidlaw Terrace on the left hand side.*

### Site.

The site is accessed off the private road at the west end of Sidlaw Terrace. There are double gates before the existing driveway to No. 17 and it is proposed that this access is dispensed with and the hedge facing Sidlaw Terrace is planted to infill the gap. The new entrance, at the east end of the plot, will serve both the existing and the new house. The east boundary is formed with a Leylandii hedge and the west boundary is a beech hedge. The mature garden is grassed with occasional planted borders, shrubs and trees. The existing house sits towards the north end of the plot.



*17 Sidlaw Terrace – existing house.*

There are two storey villas to the west and south, each sitting behind mature hedge boundaries.

To the east there are 1.5 storey houses with steeply pitched roofs facing Sidlaw Terrace and these houses sit considerably further forward on their plots than does the house at No. 17.

**Proposal.**



*Proposed new house, complete with slate roof, feature stone bay window.*

The proposal is to erect a new, 1.5 storey house in the south portion of the garden of 17 Sidlaw Terrace, complete with integral garage and visitor parking space behind the substantial beech hedge which presents itself to Sidlaw Terrace. Being behind the mature hedging the new house will maintain the privacy and character of the west end of Sidlaw Terrace.

The existing house and the new house would be accessed from a new driveway at the east end of the plot and the former driveway would be abandoned, the gates removed and the driveway itself re-landscaped. The garden shed would be moved to the back garden of the existing house. There would be a mutual, sliding, wrought iron gate at the entrance to the driveway and then another set of gates before the existing house.

The boundary between the two houses would be formed with an 1800mm high close boarded timber fence which would maintain the privacy for each house.

Each house would have a garage and a visitor parking space. Both the front and back gardens of the new house would be sheltered behind either the beech hedge facing the Terrace and the new fence which would be placed behind the parking area.

The private garden areas for each house would be as follows:- existing house would have 520 sq. metres of private amenity space and the new house would have 340 sq. metres of private amenity space.

Some of the existing trees in the front garden would be lost because they are dangerous, in fact 6 no. trees have been lost due to wind damage already. The lost trees are conifers and birch. An agreed replanting scheme would be carried out. The boundary enclosures would remain intact.



*The shading effect of the existing conifers in the garden can be seen here as the shadows cover the south wall of the house and part of the patio.*



The proposed new house has been positioned to align with the houses to the east of the site, further along Sidlaw Terrace, which are 1.5 storeys high. **The ridge height of the proposed new house would be 1.00 metre lower than the houses to the east.**

The new house would have a slate roof, rendered walls with stone features and timber windows and doors.

The south elevation of the existing house and the north elevation of the new house would be a minimum of 12.5 metres apart and there would be the 1800mm high solid fence in between which would give complete privacy to each dwelling.

The distance between the two houses has been increased since the previous application.

**The new house would cover 26.8% of the plot, which complies with advice note 14.**

The footprint of the new house has been reduced from the previous application.

The following sun path diagrams illustrate that the impact of the new house is less than that of the existing trees on the site. There would be no impact on the neighbouring houses.



*Sun path on the equinox in the morning. The proposed house makes no impact on the surrounding houses.*



*Sun path on the equinox at noon.*



*Sun path on the equinox in the afternoon. Once again, there is no impact on the surrounding houses caused by this new house.*



*Sun path at the summer solstice in the morning.*



*Sun path at the summer solstice at noon.*



*Sun path at the summer solstice in the afternoon.*

The windows on the north elevation of the new house would be angled at 45 degrees in order that they do not face the existing house and there can be no suggestion of overlooking. By projecting these windows out from the façade it creates an interesting elevation. This solution also complies with Policy DS4.



## **Backland Development.**

During the course of the previous application it was stated that the proposal would create ‘a backland development’ of the existing house. Advice Note 6 states that ‘*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*’.

The criteria to be met are as follows.

1. A minimum plot area of 400 square metres. This statement has previously noted that the area of the proposed plot is 560 square metres and the resultant existing house plot area is 810 square metres.
2. Siting to minimise the loss of privacy, outlook and space for adjoining residents. The houses would be bounded by mature landscaping which prevent any overlooking. The proposed boundary between the two houses is 1800 mm high which is the accepted standard height of garden fencing which affords privacy. There are no windows at the upper level which face the adjoining properties, unlike the adjoining property at 15 Sidlaw Terrace where permission was granted for a first floor extension window directly overlooking the existing house.
3. Window distances for directly opposite windows. The window distances displayed in this statement meet the distance requirement to maintain privacy.
4. 1.5 storey maximum. This proposal meets this requirement.
5. A safe access. The access on the private road meets the standards laid down by Angus Council for width and visibility.
6. A sensitive design. The materials used, the scale of the proposal and the architectural features are all in keeping with the mature quality of the neighbourhood. The fact that the new house is behind an established landscape setting, on a quiet private road, means that hardly anyone will be aware of it. The quality of the setting will not be impaired. We have stated that an agreed landscape scheme would be created, in accordance with Policy PV7 and in conjunction with the Angus Council Forestry Section.
7. The proposal must not jeopardise the overall planning of the area. This proposal is for one house which meets all of the criteria required. Recently, to the west, the former ‘Jungle Kids’ site was redeveloped for high density housing with smaller gardens and without mature landscaping. Here, there is a clear example of ‘backland development’ – one would ask which was in greater danger of ‘jeopardising’ the overall planning of the area?
8. The granting of planning permission will not be regarded as setting a precedent.



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100026824-002

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

## Type of Application

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

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

## Description of Proposal

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

Erection of a new house in the garden ground.

Is this a temporary permission? \*

Yes  No

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

Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Peter Inglis Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Peter	Building Name:	Prospect III
Last Name: *	Inglis	Building Number:	
Telephone Number: *	01382 562067	Address 1 (Street): *	Gemini Crescent
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Dundee
Fax Number:		Country: *	UK
		Postcode: *	DD2 1SW
Email Address: *	peteringlisarchitect@gmail.com		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	J.	Building Number:	17
Last Name: *	Devlin	Address 1 (Street): *	Sidlaw Terrace
Company/Organisation		Address 2:	Birkhill
Telephone Number: *		Town/City: *	Dundee
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	DD2 5PY
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Angus Council

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

Address 1:

17 SIDLAW TERRACE

Address 2:

BIRKHILL

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

DUNDEE

Post Code:

DD2 5PY

Please identify/describe the location of the site or sites

Northing

734294

Easting

335005

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Site Area

Please state the site area:

560.00

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

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

Garden ground

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes  No

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

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

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

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

2

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

4

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

## Water Supply and Drainage Arrangements

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

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- Yes – connecting to public drainage network  
 No – proposing to make private drainage arrangements  
 Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? \*  Yes  No  
(e.g. SUDS arrangements) \*

Note:-

Please include details of SUDS arrangements on your plans

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

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

- Yes  
 No, using a private water supply  
 No connection required

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

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*  Yes  No  Don't Know

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

Do you think your proposal may increase the flood risk elsewhere? \*  Yes  No  Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*  Yes  No

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

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*  Yes  No

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

Waste storage for recycling space available on site.

## Residential Units Including Conversion

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

Yes  No

How many units do you propose in total? \*

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

## All Types of Non Housing Development – Proposed New Floorspace

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

Yes  No

## Schedule 3 Development

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

Yes  No  Don't Know

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

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

## Planning Service Employee/Elected Member Interest

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

Yes  No

## Certificates and Notices

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

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

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

Yes  No

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

Yes  No

## Certificate Required

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

Certificate A

# Land Ownership Certificate

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

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

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

Signed: Peter Inglis

On behalf of: Mr J. Devlin

Date: 08/05/2017

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes  No  Not applicable to this application

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

Yes  No  Not applicable to this application

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

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes  No  Not applicable to this application

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

Yes  No  Not applicable to this application

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

Yes  No  Not applicable to this application

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

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

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

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

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

## Declare – For Application to Planning Authority

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

Declaration Name:

Declaration Date:



**Angus Council**

<b>Application Number:</b>	17/00369/FULL
<b>Description of Development:</b>	Erection of a New Dwellinghouse in the Garden Ground Re-Application
<b>Site Address:</b>	17 Sidlaw Terrace Birkhill Dundee DD2 5PY
<b>Grid Ref:</b>	335005 : 734294
<b>Applicant Name:</b>	Mr J. Devlin

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

The application site consists of the front garden area of the existing residential property at number 17 Sidlaw Terrace. The existing property and remaining garden area is located to the north and Birkhill Primary School is located beyond this. The access road at Sidlaw Terrace is located to the south. Residential properties bound the application site to the west, east and south (beyond the road). Existing mature hedging bounds the site to the west, south and east and there are a number of existing trees within the site which have been identified on the plans.

**Proposal**

The proposal is for the erection of a single dwelling house located centrally within the application site. The dwellinghouse would be 1.5 storeys in height with an integrated garage. Smooth white cement render is proposed on the walls with the roof to be finished in natural slate. An existing access to the site would be removed and a new access would be formed to the east of the proposed plot (within land in control of the applicant). Part of an existing hedge would be removed to form this access. Additional hedging would be planted to close-off the access point which is to be removed. A number of trees would be removed (mix of conifer, birch and shrubs) to facilitate the proposal and these are identified on the plan. Some additional planting appears to be proposed.

The application has not been subject of variation.

**Publicity**

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 26 May 2017 as development Contrary to Development Plan

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

**Planning History**

Application 16/00787/FULL for the Erection of a Dwellinghouse on the site was withdrawn on 18 November 2016.

**Applicant's Case**

As part of the application a Design Statement was submitted and can be summarised as follows:

- o Provided a summary of the site history and the previous withdrawn application;
- o The existing house will retain a substantial garden and the mature boundary treatments will be

- retained;
- o The new entrance proposed will serve both the existing and proposed house;
  - o That the proposal being behind mature hedging will maintain the privacy and character of the west end of Sidlaw Terrace;
  - o The boundary between the two houses would be formed by a 1.8m high timber fence;
  - o Some of existing trees would be lost because they are dangerous and an agreed replanting scheme would be carried out;
  - o The proposed house has been positioned to align with houses to the east (with ridge height being 1m lower)
  - o The south elevation of the existing house and the north elevation of the proposed house would be 12.5m apart and a solid fence would give complete privacy;
  - o The footprint of the house has been reduced from the previous application;
  - o In terms of loss of sunlight the new house is less than that of the existing trees on the site and there would be no impacts on neighbouring houses;
  - o The windows on the proposed new house would be angled at 45 degrees in order that they do not face the existing house and there can be no suggestion of overlooking.
  - o Refers to Advice Note 6 and backland development and noted that the plot is 560sqm and has confirmed that they consider would meet this advice note.

## **Consultations**

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

**Angus Council - Roads** - No objections in principle. However suggested that 2.0m by 20m visibility sightlines would improve road safety but that this would significantly affect the hedge fronting the site. In terms of parking the Roads Service indicated that 3No. parking spaces are required for a new dwellinghouse and queried the existing provision proposed. Noted that additional parking could be dedicated to the shared driveway but that this could lead to neighbour disputes over obstruction of access.

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

## **Representations**

There were no letters of representation.

## **Development Plan Policies**

### **Angus Local Development Plan 2016**

Policy DS1 : Development Boundaries and Priorities  
Policy DS3 : Design Quality and Placemaking  
Policy DS4 : Amenity  
Policy TC2 : Residential Development  
Policy PV7 : Woodland, Trees and Hedges  
Policy PV15 : Drainage Infrastructure

### **TAYplan Strategic Development Plan**

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

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

## **Assessment**

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

The application site is located within a development boundary and is not allocated or identified for development in the Angus Local Development Plan (ALDP). Policy DS1 of the ALDP states that proposal on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP. Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site.

Policy TC2 relates to proposals for residential development. The proposal would be compatible with established and proposed land uses in the immediate area as it would be residential in nature. The site is not protected or allocated for another use. The proposed residential unit could provide a satisfactory residential environment. A single house at this location would not require provision of affordable housing.

However, Policy TC2 also requires proposal for new housing development to be consistent with the character and pattern of development in the area. Policy DS3 Design Quality and Placemaking indicates that development proposals should deliver a high design standard and draw upon those aspects of landscape and townscape that contribute positively to the character and sense of place of the area. It further indicates that development proposals should fit with the character and pattern of development in the surrounding area.

In this regard, there is a fairly clear pattern of development in the surrounding area; houses front the streets and the backs of houses face each other. In Sidlaw Terrace houses typically follow that pattern, with fronts facing the roadway and backs facing the rear elevation of the houses they back onto. The eastern end of the street has houses with a common building line that sit in the region of 7 metres from the roadway. The houses to the south of the street in this area have small rear gardens and back onto properties that front The Lane to the south. The houses to the north have long rear gardens and back onto properties in Keithhall Gardens to the north. Towards the west of the street the houses on the north of the street (including the application site) occupy larger plots. The houses front the street but are set back from it at a distance close to 27 metres. The front garden areas are bound by hedges and accommodate trees that create a green space and provide character within the townscape.

The proposal would see a new house built in the front garden of the dwelling at 17 Sidlaw Terrace. It would be on a similar building line to the houses to the east and it would face the street. However, it would sit immediately in front of the existing house at No. 17 and the front windows of that house would directly face the rear elevation of the proposed house. It would create a tandem or backland style of housing that does not respect the existing pattern of development and that is not characteristic of the area. The proposal would involve the removal of the majority of trees that currently occupy the site. The provision of the visibility splay required by the Roads Service would require the removal of much of the existing boundary hedge. The loss of the trees and hedging would detract from the amenity and character of the area.

In terms of amenity, Policy DS4 states that all proposed development must have full regard to opportunities for maintaining and improving environmental quality. Advice Note 14 indicates that proposals should respect the character of the area. Advice Note 6 which relates to Backland Housing Development states that windows of habitable rooms should not be placed directly opposite or inclined horizontally to those habitable rooms in existing houses unless there is a distance of approximately 20 metres between both dwellings. The window distances between the existing and proposed dwellinghouse to the north are between 12.5 and 13.5 metres. Whilst the design of the proposed house seeks to minimise impacts associated with loss of privacy, a new house located directly in-front of the main windows of an existing dwelling at the distance involved cannot be considered to maintain or improve environmental quality. Similarly, the loss of the existing trees and hedging would not be consistent with that policy requirement.

The Roads Service has raised no objection in principle and issues could be addressed by planning conditions. Scottish Water has not commented at the time of writing this report. The proposal does not give rise to any other significant issues that could not be addressed by planning condition.

In addition, it is relevant to note that the garden areas of the houses to the east of the application site are reasonably large. Approval of this application could lead to proposals for backland development within the rear gardens (or combined rear gardens) of those properties. Such development would be difficult to

resist if this application was approved and would seriously erode the character and amenity of the area.

It is also relevant to note that the Council has resisted other proposals that would create backland development in this area. A proposal at 11 Highfield Place was refused by the Development Standards Committee (Report 709/07) and subsequently dismissed on appeal. In that case the Appeal Reporter commented that *'I find that the introduction of backland development as proposed in this case would adversely affect the character of the surrounding area and result in a significant loss of amenity.'*

In summary, the proposal would not respect the pattern or character of development in the area. It would require the removal of hedging and trees that contribute to the character and amenity of the area. It would establish a precedent for further tandem/backland development that would be seriously detrimental to the character and amenity of the area. On this basis the proposal is contrary to development plan policy. There are no material considerations that justify approval of planning permission contrary to the development plan.

### **Human Rights Implications**

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

### **Equalities Implications**

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

### **Decision**

The application is Refused

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

1. That the application is contrary to Policies DS1, DS3, DS4, TC2 and PV7 of the Angus Local Development Plan 2016 as it would result in a form of tandem development that is not consistent with the character and pattern of development in the surrounding area and as it would result in the loss of trees and hedging that contribute positively to the character and amenity of the area which would be detrimental to environmental quality.
2. That the proposal, if approved, would establish a precedent or further tandem or backland development in the area which would adversely affect the character of the surrounding area and result in a significant loss of amenity.

Case Officer: James Wright  
Date: 03 July 2017

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

#### **Angus Local Development Plan 2016**

Policy DS1 : Development Boundaries and Priorities  
All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous\* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

\*Sharing an edge or boundary, neighbouring or adjacent

#### Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- o Distinct in Character and Identity: Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- o Safe and Pleasant: Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- o Well Connected: Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.
- o Resource Efficient: Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

#### Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

#### Policy TC2 : Residential Development

All proposals for new residential development\*, including the conversion of non-residential buildings must:

- o be compatible with current and proposed land uses in the surrounding area;
- o provide a satisfactory residential environment for the proposed dwelling(s);
- o not result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and
- o include as appropriate a mix of house sizes, types and tenures and provision for affordable housing in accordance with Policy TC3 Affordable Housing.

Within development boundaries Angus Council will support proposals for new residential development where:

- o the site is not allocated or protected for another use; and
- o the proposal is consistent with the character and pattern of development in the surrounding area.

In countryside locations Angus Council will support proposals for the development of houses which fall into at least one of the following categories:

- o retention, renovation or acceptable replacement of existing houses;
- o conversion of non-residential buildings;
- o regeneration or redevelopment of a brownfield site that delivers significant visual or environmental improvement through the removal of derelict buildings, contamination or an incompatible land use;
- o single new houses where development would:
- o round off an established building group of 3 or more existing dwellings; or
- o meet an essential worker requirement for the management of land or other rural business.
- o in Rural Settlement Units (RSUs)\*\*, fill a gap between the curtilages of two houses, or the curtilage of one house and a metalled road, or between the curtilage of one house and an existing substantial building such as a church, a shop or a community facility; and
- o in Category 2 Rural Settlement Units (RSUs), as shown on the Proposals Map, gap sites (as defined in the Glossary) may be developed for up to two houses.

Further information and guidance on the detailed application of the policy on new residential development in countryside locations will be provided in supplementary planning guidance, and will address:

- o the types of other buildings which could be considered suitable in identifying appropriate gap sites for the development of single houses in Category 1 Rural Settlement Units, or for the development of up to two houses in Category 2 Rural Settlement Units.
- o the restoration or replacement of traditional buildings.
- o the development of new large country houses.

\*includes houses in multiple occupation, non-mainstream housing for people with particular needs, such as specialist housing for the elderly, people with disabilities, supported housing care and nursing homes.

\*\*Rural Settlement Units are defined in the Glossary and their role is further explained on Page 9.

#### Policy PV7 : Woodland, Trees and Hedges

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- o protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- o be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- o ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- o ensure new woodland is established in advance of major developments;
- o undertake a Tree Survey where appropriate; and
- o identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.

#### Policy PV15 : Drainage Infrastructure

Development proposals within Development Boundaries will be required to connect to the public sewer where available.

Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria\*. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of waste water treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. A private drainage system will only be considered as a means towards achieving connection to the public sewer system, and when it forms part of a specific development proposal which meets the necessary criteria to trigger a Scottish Water growth project.

All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority. SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process.

Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

\*Enabling Development and our 5 Criteria (<http://scotland.gov.uk/Resource/0040/00409361.pdf>)

*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

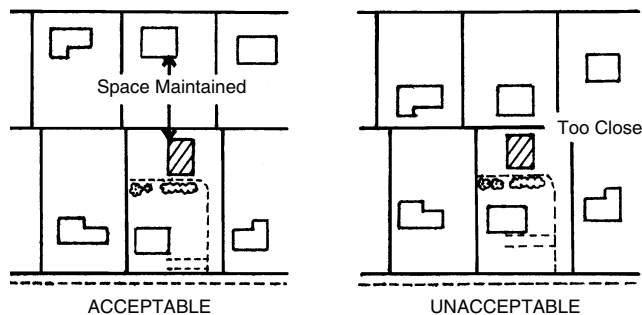
In the majority of backland development situations, adjacent properties will have enjoyed an open aspect knowing that, as a normal highway access would be impossible or unlikely, the aspect will remain more or less intact. In these circumstances, the erection of a house or houses in the previously open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

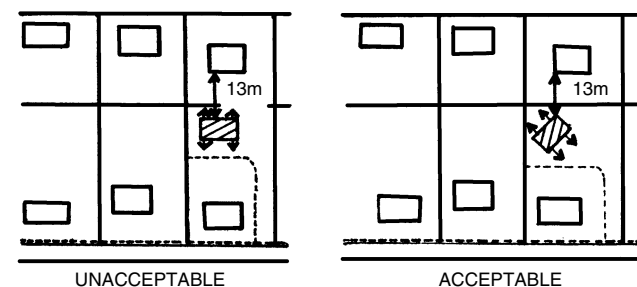
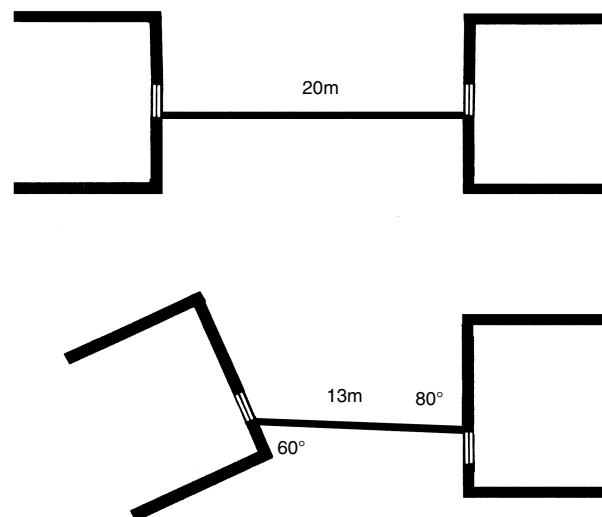
2. Development on backland sites should be sited in such a way as to minimise the loss of privacy, outlook and space for adjoining residents. A reasonable degree of space must be maintained around and between the new house and those existing.

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.



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

PLANNING PERMISSION REFUSAL  
REFERENCE : 17/00369/FULL

To **Mr J. Devlin**  
**c/o Peter Inglis Architects**  
**Prospect III**  
**Gemini Crescent**  
**Dundee**  
**DD2 1SW**

With reference to your application dated 9 May 2017 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

**Erection of a New Dwellinghouse in the Garden Ground Re-Application at 17 Sidlaw Terrace Birkhill Dundee DD2 5PY for Mr J. Devlin**

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

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

1. That the application is contrary to Policies DS1, DS3, DS4, TC2 and PV7 of the Angus Local Development Plan 2016 as it would result in a form of tandem development that is not consistent with the character and pattern of development in the surrounding area and as it would result in the loss of trees and hedging that contribute positively to the character and amenity of the area which would be detrimental to environmental quality.
2. That the proposal, if approved, would establish a precedent or further tandem or backland development in the area which would adversely affect the character of the surrounding area and result in a significant loss of amenity.

**Amendments:**

The application has not been subject of variation.

Dated this **4 July 2017**

A handwritten signature in black ink that reads 'Kate Cowey'.

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

## Planning Decisions – Guidance Note

**Please retain – this guidance forms part of your Decision Notice**

You have now received your Decision Notice. This guidance note sets out important information regarding appealing or reviewing your decision. There are also new requirements in terms of notifications to the Planning Authority and display notices on-site for certain types of application. You will also find details on how to vary or renew your permission.

**Please read the notes carefully to ensure effective compliance with the new regulations.**

### DURATION

This permission will lapse 3 years from the date of this decision, unless there is a specific condition relating to the duration of the permission or development has commenced by that date.

## PLANNING DECISIONS

### Decision Types and Appeal/Review Routes

The 'decision type' as specified in your decision letter determines the appeal or review route. The route to do this is dependent on the how the application was determined. Please check your decision letter and choose the appropriate appeal/review route in accordance with the table below. Details of how to do this are included in the guidance.

Determination Type	What does this mean?	Appeal/Review Route
<b>Development Standards Committee/Full Council</b>	National developments, major developments and local developments determined at a meeting of the Development Standards Committee or Full Council whereby relevant parties and the applicant were given the opportunity to present their cases before a decision was reached.	<b>DPEA (appeal to Scottish Ministers) – See details on attached Form 1</b>
<b>Delegated Decision</b>	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	<b>Local Review Body – See details on attached Form 2</b>
<b>Other Decision</b>	All decisions other than planning permission or approval of matters specified in condition. These include decisions relating to Listed Building Consent, Advertisement Consent, Conservation Area Consent and Hazardous Substances Consent.	<b>DPEA (appeal to Scottish Ministers) – See details on attached Form 1</b>

## NOTICES

### **Notification of initiation of development (NID)**

Once planning permission has been granted and the applicant has decided the date they will commence that development they must inform the Planning Authority of that date. The notice must be submitted before development commences – failure to do so would be a breach of planning control. The relevant form is included with this guidance note.

### **Notification of completion of development (NCD)**

Once a development for which planning permission has been given has been completed the applicant must, as soon as practicable, submit a notice of completion to the planning authority. Where development is carried out in phases there is a requirement for a notice to be submitted at the conclusion of each phase. The relevant form is included with this guidance note.

### **Display of Notice while development is carried out**

For national, major or 'bad neighbour' developments (such as public houses, hot food shops or scrap yards), the developer must, for the duration of the development, display a sign or signs containing prescribed information.

The notice must be in the prescribed form and:-

- displayed in a prominent place at or in the vicinity of the site of the development;
- readily visible to the public; and
- printed on durable material.

A display notice is included with this guidance note.

Should you have any queries in relation to any of the above, please contact:

Angus Council  
Communities  
Planning  
County Buildings  
Market Street  
Forfar  
Angus  
DD8 3LG

Telephone 01307 473212 / 473207 / 473335

E-mail: [planning@angus.gov.uk](mailto:planning@angus.gov.uk)

Website: [www.angus.gov.uk](http://www.angus.gov.uk)



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

## The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 1

*Notification to be sent to applicant on refusal of planning permission  
or on the grant of permission subject to conditions decided by Angus Council*

1. If the applicant is aggrieved by the decision of the planning authority-

- a) to refuse permission for the proposed development;
- b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers to review the case under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of appeal should be addressed to Directorate for Planning & Environmental Appeals, 4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR. Alternatively you can submit your appeal directly to DPEA using the national e-planning web site <https://eplanning.scotland.gov.uk>.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



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

### The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 2

*Notification to be sent to applicant on refusal of planning permission  
or on the grant of permission subject to conditions decided through  
Angus Council's Scheme of Delegation*

1. If the applicant is aggrieved by the decision of the planning authority-
  - a) to refuse permission for the proposed development;
  - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of review should be addressed to Committee Officer, Angus Council, Resources, Legal & Democratic Services, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

A Notice of Review Form and guidance can be found on the national e-planning website <https://eplanning.scotland.gov.uk>. Alternatively you can return your Notice of Review directly to the local planning authority online on the same web site.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

# COMMUNITIES **Your experience with Planning**

Please indicate whether you agree or disagree with the following statements about your most recent experience of the Council's handling of the planning application in which you had an interest.

**Q.1 I was given the advice and help I needed to submit my application/representation:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.2 The Council kept me informed about the progress of the application that I had an interest in:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.3 The Council dealt promptly with my queries:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.4 The Council dealt helpfully with my queries:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.5 I understand the reasons for the decision made on the application that I had an interest in:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q.6 I feel that I was treated fairly and that my view point was listened to:-**

<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>	<b>It does not apply</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**OVERALL SATISFACTION:** Overall satisfaction with the service: .....

**Q.7 Setting aside whether your application was successful or not, and taking everything into account, how satisfied or dissatisfied are you with the service provided by the council in processing your application?**

<b>Very satisfied</b>	<b>Fairly satisfied</b>	<b>Neither Satisfied nor Dissatisfied</b>	<b>Fairly Dissatisfied</b>	<b>Very Dissatisfied</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**OUTCOME:** Outcome of the application:

**Q.8 Was the application that you had an interest in:-**

Granted Permission/Consent	<input type="checkbox"/>	Refused Permission/Consent	<input type="checkbox"/>	Withdrawn	<input type="checkbox"/>
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**Q.9 Were you the:-** Applicant  Agent  Third Party objector who made a representation

Please complete the form and return in the pre-paid envelope provided.  
Thank you for taking the time to complete this form.