

**ANGUS COUNCIL**

**DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 13 FEBRUARY 2018**

**LAND ADJACENT TO TARIEBANK GARDENS, TARIEBANK, ARBROATH**

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

**ABSTRACT:**

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission in principle for the erection of a dwellinghouse, application No 17/00647/PPPL, at Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**);
- (ii) review the case submitted by the Applicant (**Appendix 2**);
- (iii) consider the further lodged representations (**Appendix 3**); and
- (iv) consider the applicant's response to further representations (**Appendix 4**).

**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.

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**List of Appendices:**

- Appendix 1 – Submission by Planning Authority
- Appendix 2 – Submission by Applicant
- Appendix 3 – Further Lodged Representations
- Appendix 4 – Applicant's Response to Further Representations

## ANGUS COUNCIL'S SUMISSION ON GROUNDS OF REFUSAL

APPLICATION NUMBER – 17/00647/PPPL

APPLICANT- MR ALISTAIR BURNETT

PROPOSAL & ADDRESS – ERECTION OF DWELLINGHOUSE AT LAND ADJACENT TO  
TARRIEBANK GARDENS TARRIEBANK ARBROATH

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## Angus Council

<b>Application Number:</b>	17/00647/PPPL
<b>Description of Development:</b>	Erection of Dwelling House
<b>Site Address:</b>	Land Adjacent To Tarriebank Gardens Tarriebank Arbroath
<b>Grid Ref:</b>	365200 : 744879
<b>Applicant Name:</b>	Mr Alistair Burnett

## Report of Handling

### Site Description

The application site is a 1,112sqm area of woodland some 770m north of Marywell. The site lies west of the A92 road and West Woods of Ethie and south east of Tarriebank House Residential Care Home and the Tarriebank Gardens housing development. The application site lies at the north west of a roadside woodland strip and now consists of thinly dispersed mature trees and planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre. The site is bound at the west by residential garden ground of the Willowbank dwelling house, at the north by the access road to the care home and housing development, at the south by a further area of scrubland and the Robinhill dwelling house, and at the east by a strip of landscape planting formed as a requirement for Planning Permission Reference: 04/01722/FUL for the erection of the 8 existing dwelling houses at Tarriebank Gardens. A 2,070sqm area of adjacent ground south of the application site and extending to the Robinhill dwelling at the south is shown as being in the applicant's ownership.

In the wider context, Tarriebank lies to the west of the A92 road and consists of a traditional countryside house that is currently operated as a residential care home for the elderly. A housing development consisting of eight modern detached dwellings lies to the northeast of the former country house. The development known as Tarriebank Gardens has a long planning history but essentially came into being following the granting of a Certificate of Lawful Use (00/00991/CLU) that established that planning permission reference: 01/90/0597 for the erection of five dwellings had been initiated and was therefore extant. One further dwelling (Willowbank House) lies to the south of the access into Tarriebank House and west of the application site. The access into Tarriebank is a formal bellmouth junction with the A92 road. Residential curtilages are set back from the junction with the primary route at a distance of around 40m on both sides of the intersection.

### Proposal

This is an application for planning permission in principle for the erection of a single dwelling house. Access to the site would be taken from the existing access road to the wider Tarriebank site. An indicative site plan has been provided showing a dwelling at the south west corner of the site and driveway with 2 vehicle parking spaces at the north. A timber fence would form a boundary treatment around the site perimeter, with hedging provided at the east and south boundary. A 315sqm area of the existing landscaped strip required under Planning Permission Reference: 04/01722/FUL for the Tarriebank Gardens housing development would be incorporated into the east of the application site but retained, with the perimeter fence, a gate and hedging forming a west boundary for the strip.

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 11 August 2017.

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

### **Planning History**

**Outline planning permission application reference: 07/01602/OUT for the erection of three dwellings was withdrawn on 14 January 2008 prior to determination.**

**The site forms part of a wider area taking in land to the south that formed the subject of outline planning permission application reference: 08/01409/OUT for three dwellings which was refused on 12 March 2009 for the following reasons:**

1. That the application is contrary to Policy SC6 of the adopted Angus Local Plan Review (2009) as the proposal is not for a single house to round off or consolidate a building group (criterion a), is not for a single house on a gap site (criterion b), is not a redundant rural brownfield site (criterion c) and is not located within a Category 2 Rural Settlement Unit (criterion d);
2. That the application is contrary to criterion (a) and (b) of Schedule 2: Countryside Housing Criteria of the adopted Angus Local Plan Review (2009) as the site itself is not self contained and is larger than 2000 sq.m;
3. That the development proposed is contrary to Policy S1 of the adopted Angus Local Plan Review (2009) as a result of the failure of the proposal to satisfy the policy test of Policy SC6.

**A subsequent appeal (P/PPA/120/270) was dismissed as the proposal was found to be inconsistent with Development Plan policies.** In summing up the Reporter stated:

'I do not consider that [the] existence [of Tarriebank Gardens] establishes any precedent or justification for further housing in this rural location. To my mind Tarrienbank Gardens already appears as a somewhat incongruous suburban development in the countryside.'

**Planning permission application reference: 11/01115/PPPL for the erection of a single dwelling house at the site was refused on 19 January 2012 for the following reasons:**

1. The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road;
2. The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference P/PPA/120/270 into the landscape strip that has been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion e) of Schedule 2 in the Angus Local Plan Review and consequently does not conform to Policy SC6 in the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria;
3. The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue of its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy S1 in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.

**A subsequent appeal to the Development Management Review Committee (DMRC) was dismissed on 06 June 2012.** The DMRC concluded that the proposed development by virtue of its location was inappropriate and was not in compliance with the Policies SC6, S3 or S1 of the Angus Local Plan Review 2009 and there were no other material considerations that warranted approval of the application. A copy of the drawing considered by the DMRC and its decision on the proposal are attached as Appendix 1.

### **Applicant's Case**

Supporting documentation was submitted. The documentation consists of: -

**Supporting Statement** - This is an overarching document, prepared by Derek Scott Planning, Planning and Development Consultants, and submitted in support of the application. The statement describes in detail the application site, the proposal and the planning history of the site and assesses the proposal in the context of national and local planning policy and supplementary guidance. The statement concludes the application site is a gap site and the proposal would round off an established building group of 3 or more existing dwellings in accordance with Policy TC2 of the Angus Local Development Plan. The statement states the proposal would be a logical addition and would round off the building group in a manner which would result in a significant improvement to its setting and improve views to and from the existing building grouping. The statement asserts the reasons for the refusal of previous planning permission reference: 11/01115/PPPL for a similar proposal and subsequent dismissal of an appeal to the Development Management Review Committee were erroneous, as the reasons referred to the proposed dwelling house being located on the landscaping strip required under planning permission 04/01722/FUL for the wider Tarriebank Gardens housing development. The statement states the house was proposed on an area of ground west of the landscaping strip and the quality and maintenance of the landscaping undertaken in response to the conditions requiring this strip under Planning Permission 04/01722/FULL has been poor. It concludes the current proposal would ensure additional landscaping is undertaken within a 10.5m strip next to the adjacent A92 and requests planning permission be granted for a single house at the site.

**Letter from Agent regarding application not to be withdrawn** - Written by the agent John D Crawford Ltd. Architectural Services on 31 August 2017 and submitted in support of the application, the letter was sent in response to an e-mail from the Planning Officer advising the proposal was contrary to the provisions of the Angus Local Development Plan and would be refused. The letter challenges the Officer's consideration and advises the application is not to be withdrawn.

### **Consultations**

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

**Angus Council - Roads** - Offered no objection to the proposal provided conditions are applied providing a verge crossing at the access, sufficient number of parking spaces, access designed to prevent the discharge of water on to the public road and regulating the location of any garage building proposed at the site.

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

### **Representations**

Two letters of representation were received offering objection to the application. The main points of concern were as follows:

- o The proposal does not comply with the development plan or national guidance;
- o A reduction in the amenity value of the surrounding area and inadequacy of existing planting to mitigate Tarriebank Gardens;
- o Impact on the residential amenity of neighbouring property;
- o Inaccuracy of distance from proposed house to neighbouring Willowbank House;
- o The water supply would be pushed beyond capacity and Scottish Water will have to upgrade facilities;
- o Impact on traffic safety and exacerbating hazardous access on unrestricted A92 road;
- o Impact from road noise from A92.

These matters will be addressed in the Assessment section below.

Other matters raised are addressed as follow:

- o Assurances had been provided by builders of Tarriebank Gardens that no other properties would be built in Tarriebank. Following this a further bungalow and extension to the care home have been approved

- previous assurances provided by a developer to private individuals are a civil matter and are not a material planning consideration. The bungalow and care home extension were both granted the requisite planning permissions (references: 13/00002/FULL and 16/00424/FULL respectively);

- o Several trees at the entrance to the care home are in very bad condition and have fallen into neighbouring gardens and the road – safety issues associated with existing trees within private property a civil matter.

### **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 PV6 : Development in the Landscape

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 2 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 relates to the erection of a dwelling house in a Category 1 Rural Settlement (RSU1) in a countryside location. Policy DS1 in the Angus Local Development Plan (ALDP) indicates that 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. 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 new proposals for residential development. The application site is located within a Category 1 Rural Settlement Unit (RSU). Category 1 RSU's are areas that are not remote from towns and where the Council's policy towards new countryside housing is more restricted, as development should be directed towards existing settlements as defined by the ALDP.

Policy TC2 indicates that in countryside locations Angus Council will support proposals for new dwelling houses which fall into at least one of a number of categories. That policy is supported by adopted supplementary guidance. In terms of possible acceptable situations, the proposal would not involve retention, renovation or acceptable replacement of an existing house; it does not involve conversion of a non-residential building; it does not involve redevelopment of a brownfield site that delivers significant visual or environmental improvement; and it is not required for an essential worker in association with a rural business.

There is a building group which has developed around Tarriebank House. However, that building group has very clearly defined limits. In an easterly direction the extent of the building group is defined by areas of woodland, some of which has been felled. The proposed site is located entirely within what was the woodland area and it would extend the building group in an easterly direction. The proposal would not round off a building group. In addition, approval of this application could lead to pressure for similar development on land to the north of the access road which would not be consistent with criterion (a) of Appendix 3 of the Council's approved Countryside Housing Supplementary Guidance.

The site lies to the east of an existing dwelling but is separated from the A92 by an area of land that is identified on the submitted plans as a visibility splay. This differs slightly from the planning application in 2011 which identified the site boundary extending to the boundary of the carriageway. Notwithstanding that slight difference the site retains the characteristics of a gap site.

As the proposal is consistent with one of the criteria that would potentially allow a new house in a countryside location, it is relevant to have regard to other policy considerations. In that respect Policy TC2 states that proposals for new residential development must not result in unacceptable impact on the built and natural environment or surrounding amenity. Policy DS3 requires development proposals to 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. It indicates that development should fit with the character and pattern of development in the surrounding area. Policy DS4 deals with amenity and indicates that development must have regard to opportunities for maintaining and improving environmental quality. Criterion (e) of Appendix 3 to the Countryside Housing Supplementary Guidance states that proposals should contribute to the rural character of the surrounding area and not be urban in form and/or appearance.

At present built development/garden areas is set back from the A92 road by a woodland strip of around 30-40m width on the north and south of access into Tarriebank. The Reporter that dismissed the previous appeal in this area (P/PPA/120/270) commented that: *'I do not consider that [the] existence [of Tarriebank Gardens] establishes any precedent or justification for further housing in this rural location. To my mind Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside.'* The Development Management Review Committee (DMRC), in refusing permission for a similar single house development on a similar site, considered that '*the granting of planning consent would extend an urban development form in a countryside location*'. The current proposal differs little in practical terms to the proposal that was refused by the DMRC in 2011. It would extend the built development in an easterly direction and would reinforce an urban character that is inappropriate in the rural area. That urban form of development on undeveloped land would not maintain or improve the environmental quality of the area. In this respect the proposal is contrary to policies TC2, DS3 and DS4 as well as Criterion (e) of Appendix 3 to the Council's approved Countryside Housing Supplementary Guidance.

The applicant has indicated that the proposal would have a private foul drainage system. This is an area where there is a public sewer and therefore a private system would be contrary to policy unless it is demonstrated that a connection is not economically or technically possible. No information has been provided with the application to demonstrate why a connection to the public sewer cannot be made and in this respect the application is contrary to Policy PV15.

The proposal does not give rise to significant issues in terms of other policy considerations. However, for the reasons set out above the application is contrary to Policies TC2, DS3, DS4 and PV15 as well as Criterion (e) of Appendix 3 to the Council's approved Countryside Housing Supplementary Guidance. On that basis the application is also contrary to Policy DS1 of the ALDP.

In terms of other material planning considerations, it is relevant to have regard to the previous refusals of applications for residential development at the site and the subsequent dismissal of appeals by Scottish Ministers and the Development Management Review Committee. The application that was refused by the Development Management Review Committee was for the same form of development on a very similar site. The development plan framework has been updated in the period since those decisions were made but the basic considerations relating to the undesirability of extending an urban form of development in a rural area have not changed. In this respect the previous decisions, and in particular the decision of the Development Management review Committee on a similar proposal at this location merits some weight.

In addition, the representations submitted in respect of the application are also relevant in so far as they raise material planning matters. The concerns raised regarding compatibility with relevant development plan policy and the overall adverse impact of the development on the amenity of the area support the conclusions reached in this report.

The neighbouring house to the west known as Willowbank is in excess of 20 metres from the boundary of the application site. There is no reason to consider that a suitably designed house could not be provided

on the site in a manner that ensured no unacceptable impact on the amenity of occupants of the neighbouring dwelling.

The concerns regarding water supply are noted. Scottish Water has been consulted on the application but has offered no objection to this application.

The Roads Service has offered no objection to the application in terms of road traffic safety. The site could accommodate off-street parking at the level required by Council policy.

There are existing houses closer to the public road and traffic noise from the A92 would not justify refusal of planning permission.

The applicant asserts the reasons for the refusal of previous planning permission reference: 11/01115/PPPL for a similar proposal and subsequent dismissal of an appeal by the Development Management Review Committee (DMRC) were erroneous, as the house proposed for that application [and for this current application] was located west of the existing landscape strip. However, there is no doubt that the application site (both past and present) comprises previously undeveloped land, much of which was formerly woodland and an area of which was included as landscaping associated with Planning Permission Reference: 04/01722/FUL for the Tarriebank Gardens housing development. As previously indicated the proposal would extend the urban form of development into this area and it is this basic form of development that has previously been found unacceptable. The reasons for refusal cited by the DMRC in 2011 are not considered erroneous and it is noted that the decision was not challenged at that time.

In conclusion, the proposal is contrary to Policies TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a rural area in a manner that would detract from the amenity of the area and would not maintain or improve environmental quality. A very similar proposal at this location has previously been refused planning permission by the Development Management Review Committee. There has been no material change in circumstance in the intervening period that would now justify a grant of planning permission. Letters of objection support the conclusion that the proposal is contrary to policy and would detract from the general amenity of the area. In addition, the applicant has proposed a private sewerage arrangement in an area served by the public sewer. Such a proposal is contrary to Policy PV15 of the ALDP. The proposal is contrary to the development plan and there are no material considerations that justify approval of planning permission.

### **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 TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality.
2. That the application is contrary to Policy PV15 of the Angus Local Development Plan 2016 as the proposal involves provision of a private waste water treatment system within an area served by the public sewer.
3. That the application is contrary to Policy DS1 of the Angus Local Development Plan 2016 as the proposal is not in accordance with relevant policies of that Plan, namely Policies TC2, DS3, DS4 and PV15.

Case Officer: Fraser MacKenzie  
Date: 10 October 2017

**Appendix 1 – DMRC Decision on application 11/01115/PPPL (and accompanying site plan)**  
**Appendix 2 - Development Plan Policies**

**Appendix 1**

**DMRC Decision on application 11/01115/PPPL (and accompanying site plan)**

Development Management Review Committee

DMRC – 29 May 2012

**Review Decision Notice**

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**Decision by Development Management Review Committee (DMRC)**

- Site Address: Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath
- Application for review by Fox Planning Consultancy on behalf of Mr Alistair Burnett
- Application No. 11/01115/PPPL for Planning Permission in Principle for the Erection of a Dwellinghouse on Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath
- Application Drawings: Application Site Plan

Date of Decision Notice: 6 June 2012

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**Decision**

The DMRC upheld the decision taken by the Head of Planning and Transport and dismissed the review.

**Preliminary**

1. This notice constitutes the formal Decision Notice of the Development Management Review Committee as required by the Town & Country Planning (Scheme of Delegation and Local Review Procedures) (Scotland) Regulations 2008.
2. The above application for planning permission in principle was considered by the DMRC on 29 May 2012. The Committee was attended by Councillor David Lumgair (Chair), Councillor Bill Bowles, Councillor Jeanette Gaul, Councillor Alex King, and Councillor Bob Spink.

**Proposal**

3. Planning permission in principle was sought for the erection of a dwellinghouse on a site of approximately 1270 square metres located at Tarriebank, north of Arbroath. The site lies at the north of a recently augmented roadside woodland strip that now consists of a scrubland area with thinly dispersed mature trees and new tree planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre.

4. Tarriebank lies to the west of the A92 road and consists of a traditional country house that is currently operated as a residential care home for the elderly. A recently erected housing development consisting of eight modern detached dwellings lies to the east of the former country house. The residential dwelling, Willowbank House, lies to the south of the access into Tarriebank House. The access into Tarriebank is a formal bellmouth junction with the A92 road.

### **Reasoning**

5. The determining issues in this review were:-
  - (1) whether the proposal would accord with the provisions of the Development Plan;
  - (2) whether there were any other material considerations which should be taken into account.
6. The DMRC considered the papers submitted by the applicant and the planning authority and determined that they had sufficient information to come to a decision.
7. The DMRC noted the planning history in relation to Tarriebank and in particular in relation to a previous appeal a Reporter had concluded that Tarriebank Gardens appears as a somewhat incongruous suburban development in the countryside. It was considered by the DMRC that Policy S3 was relevant to the consideration of the proposal. Policy S3 requires that the site location and how the development fits with the local landscape character and pattern of development are taken into account. It was noted that at present the built development is set back from the A92 road by a young woodland strip of around 40 metres in width on both sides of the access into Tarriebank. Some replanting has taken place within these strips which were established in order to reduce the impact of a Tarriebank garden scheme from the A92 road. It was noted by the DMRC that the area in question was in fact subject of an approved native planting scheme which was conditional of planning permission 04/01722/FUL which is the planning permission that established Tarriebank Gardens and this planted strip was important in attempting to reduce the visual impact of Tarriebank Gardens. It was considered by the DMRC that the granting of planning consent would represent a deviation from the existing development pattern and would extend an urban development form in a countryside location into a landscaped strip that was required in the interests of amenity. In so doing the landscape buffer between the existing built development and the A92 road would be severely compromised.
8. In conclusion the DMRC considered that the proposed development by virtue of its location was inappropriate and was not in compliance with Policies SC6, S3 or S1 of the Angus Local Plan Review 2009. There were no other material considerations that warranted approval of the application.



## Appendix 2

### 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 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****COMMUNITIES  
PLANNING****CONSULTATION SHEET**

PLANNING APPLICATION NO

**17/00647/PPPL**Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

08	08	17
----	----	----

**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

**Place Directorate – Technical & Property Services  
Roads & Transport Business Unit**

TO: SERVICE MANAGER, PLANNING

FROM: INTERIM SERVICE MANAGER, ROADS

YOUR REF:

OUR REF: JDH/AG/ TD1.3

DATE: 8 SEPTEMBER 2017

SUBJECT: **PLANNING APPLICATION REF. NO. 17/00647/PPPL – PROPOSED ERECTION OF A DWELLING HOUSE AT TARRIEBANK GARDENS, ARBROATH FOR MR A BURNETT**

---

I refer to the above planning application which is similar to a previously refused application, Ref. No. 11/01115/PPPL.

The site is located on vacant land on the south side of Tarriebank Gardens, Tarriebank, Arbroath.

The National Roads Development Guide, adopted by the Council as its road standards, is relative to the consideration of the application and the following comments take due cognisance of that document.

In order to maintain the free flow of traffic on the existing public road, car parking should be provided within the site at the rate of:

1 bedroom	1 space per dwelling
2-3 bedrooms	2 spaces per dwelling
4 bedrooms	3 spaces per dwelling

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I do not object to the application but would recommend that any consent granted shall be subject to the following conditions:

- 1 That, prior to the occupation or use of the dwelling house, the verge crossing at the proposed access shall be formed and constructed in accordance with the National Roads Development Guide (SCOTS).  
Reason: to provide a safe and satisfactory access in a timely manner.

- 2 That, prior to the occupation or use of the dwelling house, parking spaces shall be provided within the site curtilage in accordance with the National Roads Development Guide (SCOTS).  
Reason: *to maintain free traffic flow on the adjacent roads.*
- 3 That, the access shall be designed so as to prevent the discharge of surface water onto the public road.  
Reason: *in the interests of road safety.*
- 4 That, any proposed or future garage shall be set back a minimum 6.0 metres from the rear of the adjacent footway.  
Reason: *to protect the free flow and safety of pedestrians on the adjacent footway and to provide an adequate level of residential amenity.*

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

*pp.*

Willowbank House  
Marywell  
Arbroath  
Angus DD11 5RF

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

Specified Delivery  
RECEIVED

29 AUG 2017

PLANNING & PLACE  
COUNTY BUILDINGS  
KC

Planning Application Reference 17/00647/PPPL

**Proposed Development of Land adjacent to Tarriebank Gardens,  
Tarriebank, Arbroath**

Monday, August 22<sup>nd</sup> 2017

Dear Sirs

In the matter of the above planning application, we are yet again in the position of needing to make our objection clear; our grounds for doing so are as follows:

As on previous occasions, we are against any further development of the site; whilst we do not wish to deny the owner of the enjoyment of his land we strongly feel that the current capacity for development has been fully reached, and any further development would put an unbearable strain upon the whole of the community and the area.

Our specific reasons for objection are as follows:

**Road safety and access:**

Any further pressure upon the access to Tarriebank will exacerbate the already dangerous junction caused by the poor visibility of unrestricted oncoming traffic on the adjacent A92. Ingress and egress to the site is already hazardous, and there is an increasing likelihood of a major road traffic accident, given the number of near misses. The access road that abuts the A92 is increasingly used by Tarriebank visitors and staff for car parking, because they have insufficient space in their grounds.

This will worsen when the existing proposed development is completed, since there will be more staff, and more residents. This access road is also increasingly used as a car park by visitors to Ethie Woods, and causes congestion, and at times, obstruction. Because of this obstruction and congestion, we already suffer the damage and trespass to our drive, as those trying to pass on the single-track road seek access to Tarriebank Nursing Home. We are erecting a perimeter wall to prevent any further edge erosion of our land by large delivery vehicles.

### **Impact on adjacent property:**

The proposed development abuts our property and there will undoubtedly be a significant negative impact. We would draw your attention to a specific inaccuracy in your house plan: you state that the proposed property will be '*40 metres to neighbouring property*'; in fact this measurement is actually *thirty* meters, since your end point is some way into the *centre* of our house, not at the house end point. We are also concerned as to the actual size of the proposed structure; this is entirely unclear from the drawing.

### **Privacy and amenity:**

Whilst you have taken note of the mature trees in area, there nonetheless will be a marked reduction in the area's amenity value. The 2005 development denuded the area of all the trees that provided good insulation from road noise of the adjacent A92, in the process extinguishing most of the existing amenity value from the approaches to the site, and little has been done in the past five years to rehabilitate this value despite assurances at the time of the proposed development.

We have up to last year taken it upon ourselves to try to keep clear the verges of the site at least that abut the main A92 road, in an effort to improve visibility for and of oncoming traffic, but have had to give this up, since we do not have suitable cutting machinery to keep on top of it.

### **Infrastructure:**

In 2005, when Tarriebank Gardens was developed, we were informed that there was to be no more development of the area; that there was insufficient capacity for an adequate water supply for any further consumption. Since then Morven Lodge has been built, and shortly, there will be an expansion of the Tarriebank Nursing Home.

How will this much development comply with the Development plan policy or national guidance?

In conclusion, we are of the strong belief that further development of this site will undoubtedly and negatively affect the quality of life for all in this community, by exacerbating an already hazardous access on an unrestricted major road; by compromising an already impoverished site as to any remaining amenity value, and by putting yet more pressure on a small, but overcrowded community of properties that cannot be truly acceptable in any plan for national or local guidance. The impact that one further development will make will be disproportionately felt on the whole community, and certainly ourselves, whose peace and privacy will again be compromised.

In our previous objections to development of this area, we were concerned that any precedent thus created will simply add to the existing problems, we thus would be very wrong to not object to any further erosion of value to the area.

Yours faithfully,

Peter and Brenda Murphy

*Recorded Delivery*

**AC4**

1 Tarriebank Gardens  
By Marywell  
Arbroath DD11 5RD

Service Manager  
Angus Council  
Communities  
Planning and Place  
Country Buildings  
Market Street  
Forfar DD8 3LG

## **RECEIVED**

25 AUG 2017

PLANNING & PLACE  
COUNTY BUILDINGS  
*14KLJ*

Planning Application Reference 17/00647/PPPL

Proposed Development At Land Adjacent To Tarriebank Gardens – Tarriebank Arbroath

Wednesday August 23<sup>rd</sup> 2017

Dear Sirs/Madam

### **AMENITIES**

We moved into our house at No 1 Tarriebank Gardens just over 11 years ago. We were at that point categorically told by The Builders Fotheringham Property Ltd. NO OTHER PROPERTIES would be built in Tarriebank because Scottish Water would have to upgrade their facility as it was only adequate for the existing number of houses.

We were also told that they Scottish Water were not prepared to do that unless the residents of Tarriebank paid for the cost.

Since then another large Bungalow has appeared in what was the grounds of Tarriebank Care Home (TCH) and also I believe an extension has also been passed for (TCH) more recently.

Obviously both of the above would stretch the water supply to its limits and maybe beyond them Creating a Potential Health and Safety Issue.

At the time when we took possession of our property we were also told that the land to the North and South of the Tarriebank Gardens site Entrance would be fully Landscaped for Traffic Noise Suppression. As I am sure you are aware No Work was carried out.

This statement can be supported by my neighbours in Tarriebank Gardens.

### **SAFETY**

With reference to the proposed entrance to the new proposed property I have sincere Safety Objections

I have been aware of a marked increase in Traffic Volume over the past four years. Reasons as Follows:

Increase in On-Line Delivery Vehicles both from Supermarkets and Dry Goods (Amazon etc.)

Parked Cars and sometimes small vans being left overnight in some cases at the Entrance to Tarriebank Gardens which makes the Entry to the Gardens Difficult and also the to The Narrow Road to Willowbank House and (TCH).

(TCH) has also has a marked increase in vehicle activity.

The road being directly at the rear of our garden we hear some of the vocal exchanges.

It now is starting to look like a potential accident area mainly because the road is not wide enough for two vehicles to pass safely.

There is NO adequate road Signage and Markings so vehicles tend not to fully stop. I and my wife have both experienced this with near misses on several occasions.

The other Hazard potential with the (TCH) road is that SEVERAL TREES are in Very Bad Condition. I have personally paid for a Tree Surgeon to assess their condition when three Large Boughs fell into my Garden (I HAVE THE PHOTOS)

I have also cleared a BOUGH from the (TCH) entrance road as NO ONE would STOP and just drove round them.

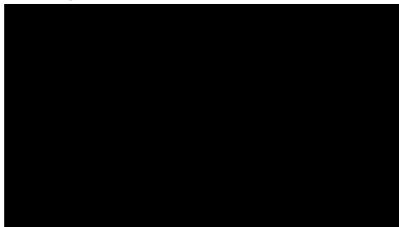
I have tried to contact the owner of (TCH) but staff were unwilling to give details.

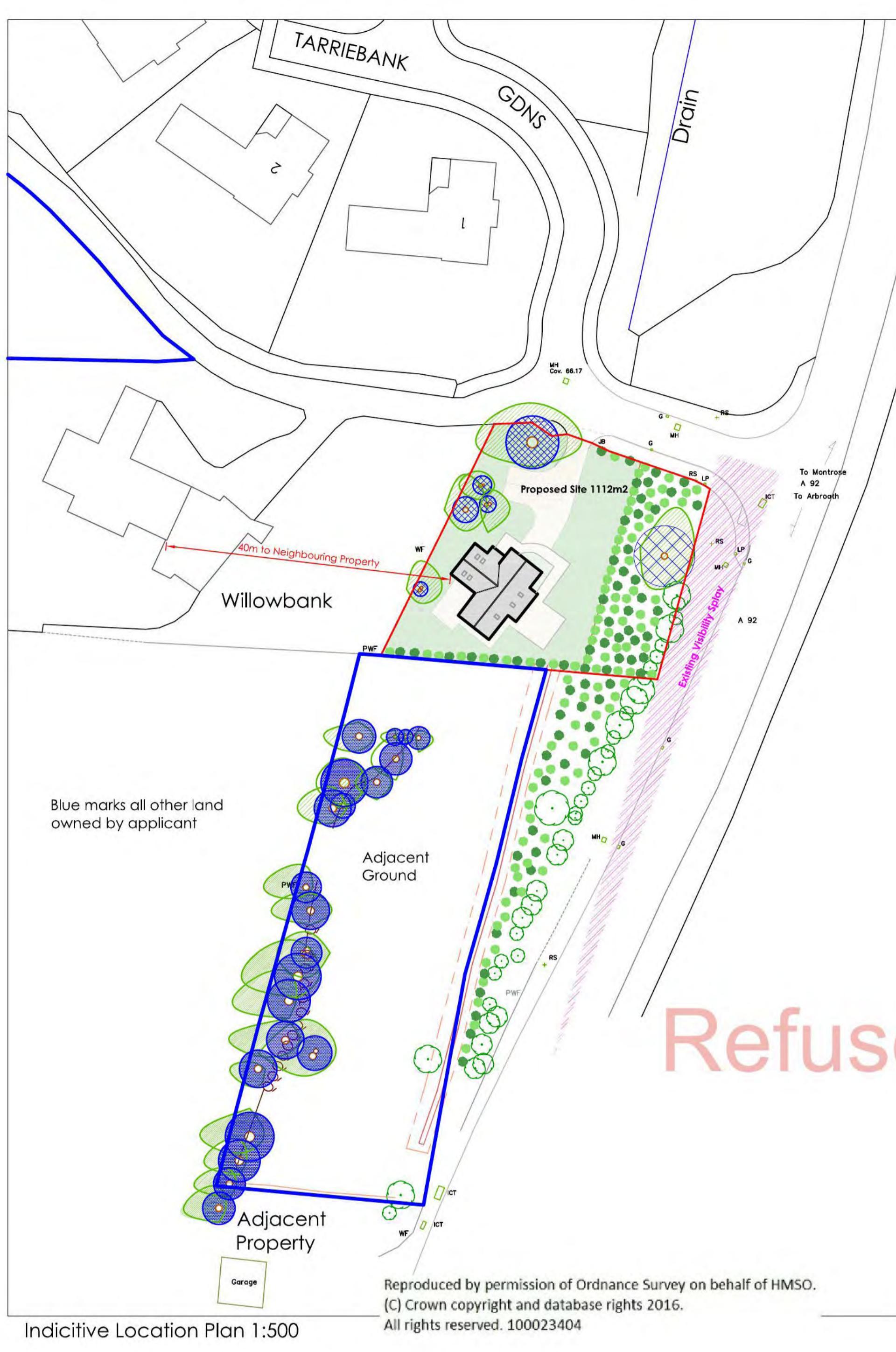
I hope you find the above information helpful

Yours faithfully

Andrew A. Anderson

Evelyn Anderson



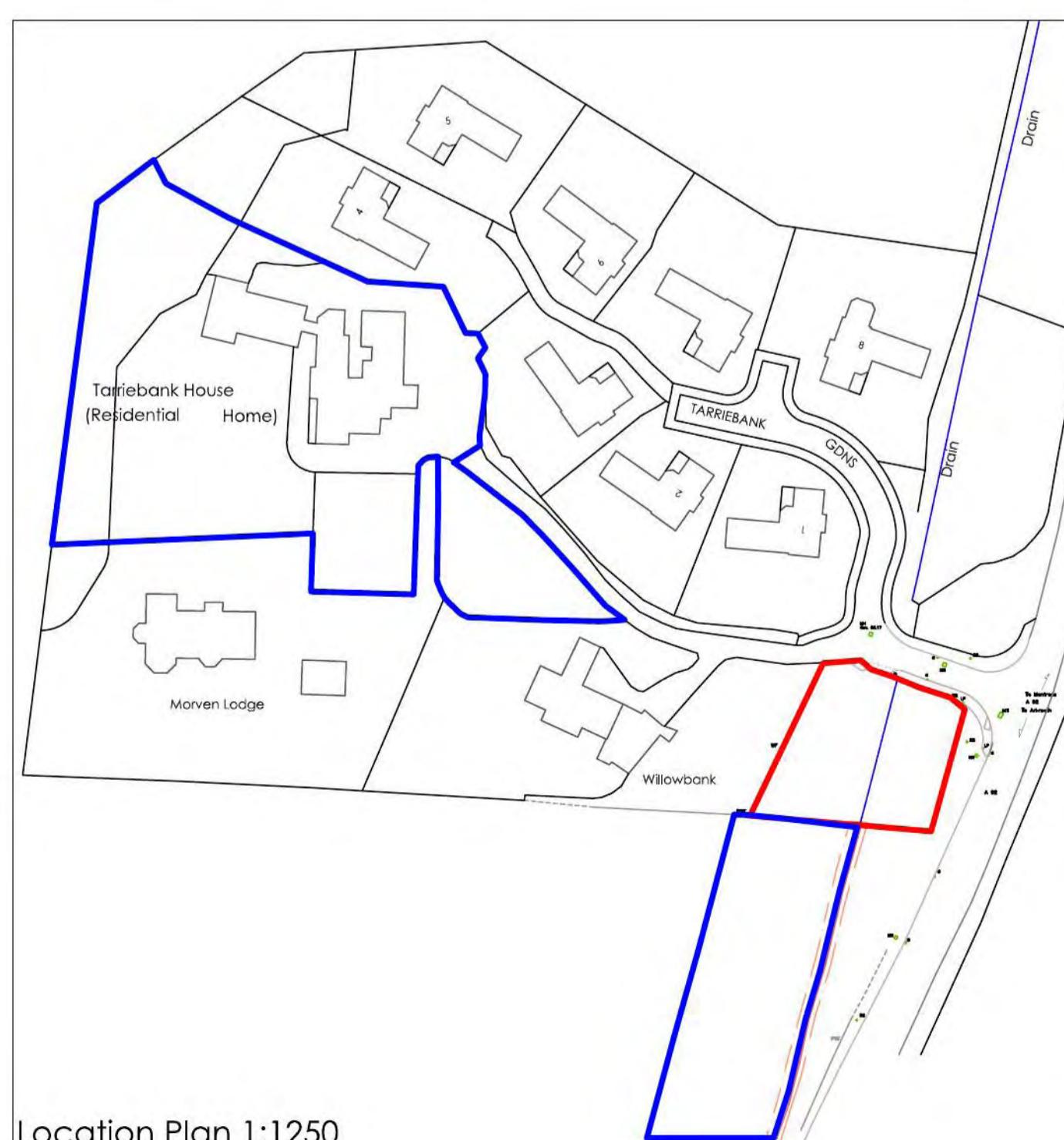


# Refused

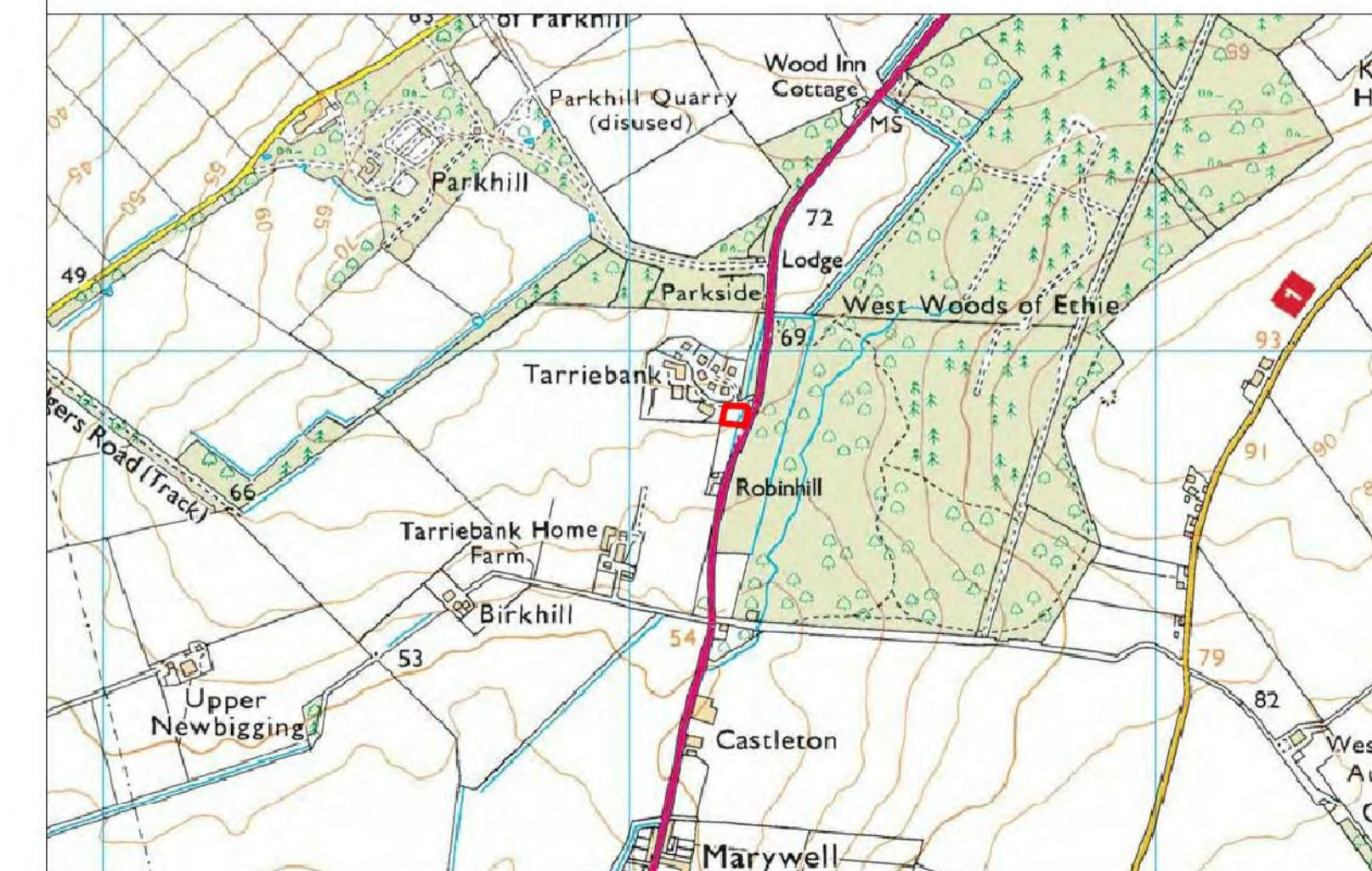
Indicitive Location Plan 1:500



# Refused



Location Plan 1:1250



Location Plan (1:50,000)

REVISION	DATE	DESCRIPTION

**CLIENT |** Mr A Burnett

---

**PROJECT |** Proposed Dwelling in Principle at Land south of  
Tirriebank Gardens, Arbroath.

---

**TITLE |** Plans

SCALE	DATE	DRAWING NUMBER	DRAWN BY
as per dwg	31.07.17	JDC/335/001	DP

This drawing is issued for the purpose  
of the status indicated below only

<input type="checkbox"/> Sketch	<input type="checkbox"/> Outline Planning
<input type="checkbox"/> Planning	<input type="checkbox"/> Building Warrant
<input type="checkbox"/> Tender Issue	<input checked="" type="checkbox"/> Construction Issue

**AC6**



AC6



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TARRIEBANK GARDENS



30



**AC6**



AC6



**AC6**



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AC6



AC6

WILLOWBROOK PRIVATE ROAD

AC6



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AC6



**AC6**



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**AC6**



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

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT  
PROCEDURE) (SCOTLAND)**

**REGULATIONS 2013**



**PLANNING PERMISSION IN PRINCIPLE REFUSAL  
REFERENCE : 17/00647/PPPL**

To      **Mr Alistair Burnett**  
**c/o John D Crawford Ltd**  
**72 New Wynd**  
**Montrose**  
**Angus**  
**DD10 8RF**

With reference to your application dated 2 August 2017 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

**Erection of Dwelling House at Land Adjacent To Tarriebank Gardens Tarriebank Arbroath for Mr Alistair Burnett**

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission in Principle (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans 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 TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality.
2. That the application is contrary to Policy PV15 of the Angus Local Development Plan 2016 as the proposal involves provision of a private waste water treatment system within an area served by the public sewer.
3. That the application is contrary to Policy DS1 of the Angus Local Development Plan 2016 as the proposal is not in accordance with relevant policies of that Plan, namely Policies TC2, DS3, DS4 and PV15.

**Amendments:**

The application has not been subject of variation.

Dated this **10 October 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.

<b>Determination Type</b>	<b>What does this mean?</b>	<b>Appeal/Review Route</b>
<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> – <i>See details on attached Form 1</i>
<b>Delegated Decision</b>	Local developments determined by 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> <i>See details on attached Form 2</i>
<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> – <i>See details on attached Form 1</i>

**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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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?**

Very satisfied	Fairly satisfied	Neither Satisfied nor Dissatisfied	Fairly Dissatisfied	Very Dissatisfied
<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  Refused Permission/Consent  Withdrawn

**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.

**ANGUS COUNCIL**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT  
TOWN AND COUNTRY PLANNING (GENERAL  
DEVELOPMENT) (SCOTLAND) ORDERS**

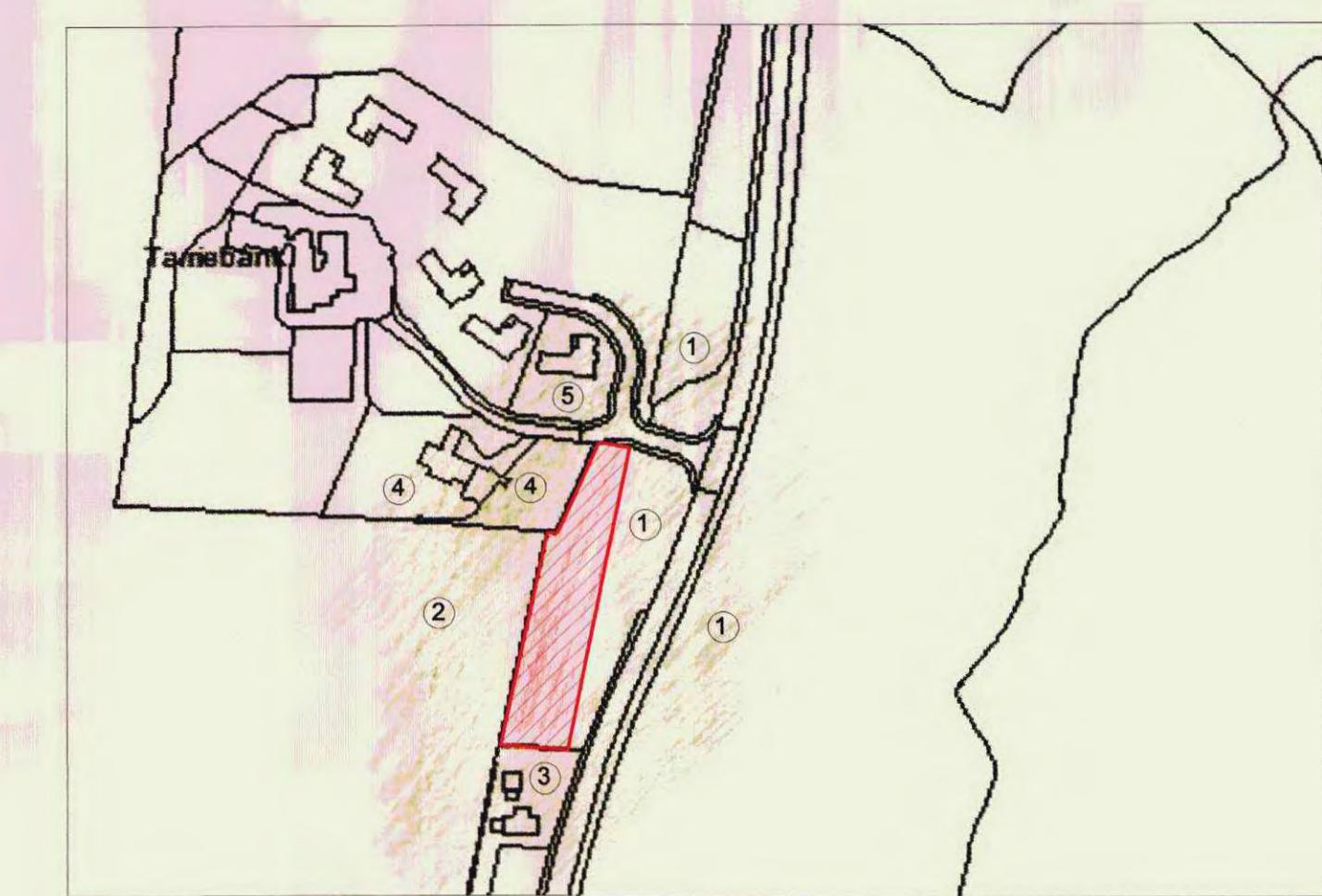
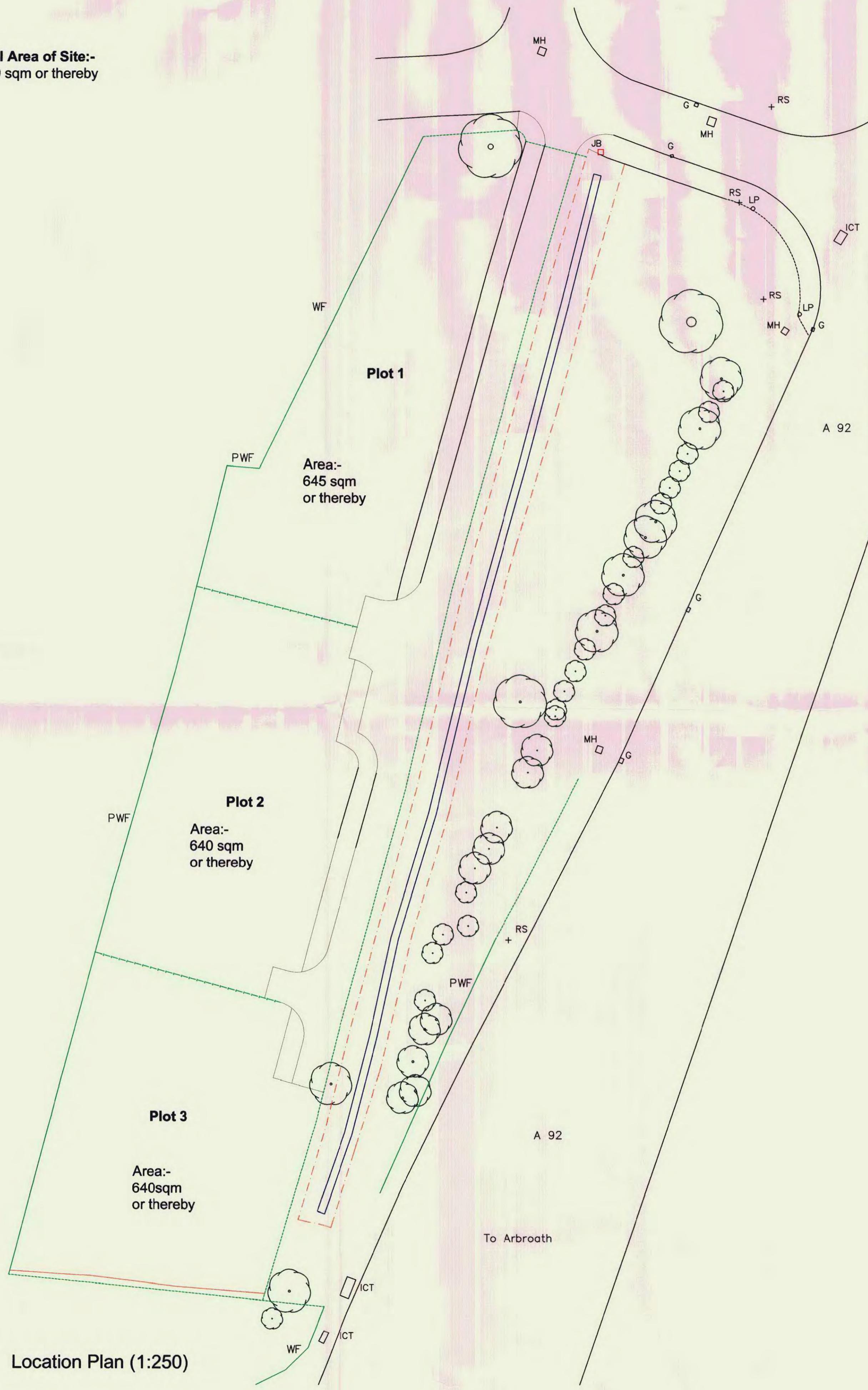


**WITHDRAWN APPLICATION  
Ref: 07/01602/OUT**

To Mr A Burnett  
c/o John D Crawford  
72 New Wynd  
Montrose  
Angus  
DD10 8RF

Application dated 22 November 2007 for Erection of Three Additional Dwellinghouses to Residential Development at Land Adjacent To Tarriebank Gardens Marywell Arbroath Angus for Mr A Burnett was withdrawn on 14 January 2008

Total Area of Site:-  
2419 sqm or thereby



Neighbours:  
1. Forestry Commission Scotland,  
Silvan House  
231 Corstorphine Road  
Edinburgh  
EH12 7AT

2. Mr & Mrs Torrie (Owner of Field)  
Tarriebank Farm  
Tarriebank  
Arbroath

3. Mr & Mrs Johnson  
Robinhill  
Tarriebank  
Arbroath

4. Mr & Mrs P Murphy  
Willowbank House  
Tarriebank  
Arbroath

5. Mr & Mrs Anderson  
Tarriebank Place  
Tarriebank  
Arbroath

REVISION:	
CLIENT:	Fotheringham Property Developments
JOB TITLE:	Proposed Erection of 3 Dwellinghouses
ADDRESS:	Land at Tarriebank Angus
SCALE:	1:250
Drawing No:	1 of 1
Drawing Title:	Outline Planning
Date:	29.10.07
Drawn by:	KJC

## ANGUS COUNCIL

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT  
TOWN AND COUNTRY PLANNING (GENERAL  
DEVELOPMENT) (SCOTLAND) ORDERS**



**OUTLINE PLANNING PERMISSION REFUSAL  
Ref: 08/01409/OUT**

To      Mr A Nurnett  
 c/o John D Crawford Ltd  
 72 New Wynd  
 Montrose  
 Angus  
 DD10 8RF

With reference to your application dated 18 November 2008 for outline planning permission under the above mentioned Acts and Order for the following development, viz.:-

**Outline Erection of 3 Dwellinghouses (Re-Application) at Land Adjacent To Tarriebank Gardens Tarriebank Arbroath for Mr A Nurnett**

The Angus Council in exercise of their powers under the above mentioned Acts and Orders hereby **Refuse Outline Planning Permission** for the said development.

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

- 1 That the application is contrary to Policy SC6 of the adopted Angus Local Plan Review (2009) as the proposal is not for a single house to round off or consolidate a building group (criterion a), is not for a single house on a gap site (criterion b), is not a redundant rural brownfield site (criterion c) and is not located within a Category 2 Rural Settlement Unit (criterion d).
- 2 That the application is contrary to criterion (a) and (b) of Schedule 2: Countryside Housing Criteria of the adopted Angus Local Plan Review (2009) as the site is not self contained and is larger than 2000 square metres.
- 3 That the development proposed is contrary to Policy S1 of the adopted Angus Local Plan Review (2009) as a result of the failure of the proposal to satisfy the policy test of Policy SC6.

Dated this 12 March 2009

Head of Planning and Transport,  
 Infrastructure Services,  
 County Buildings,  
 Market Street,  
 FORFAR.  
 DD8 3LG

**WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS**

**NOTES**

1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State in accordance with Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Development Department, Inquiry Reporter's Unit, 4 The Court Yard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XP.
  
2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Secretary of State, 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 carrying out of any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land in accordance with the Part V of the Town and Country Planning (Scotland) Act 1997.

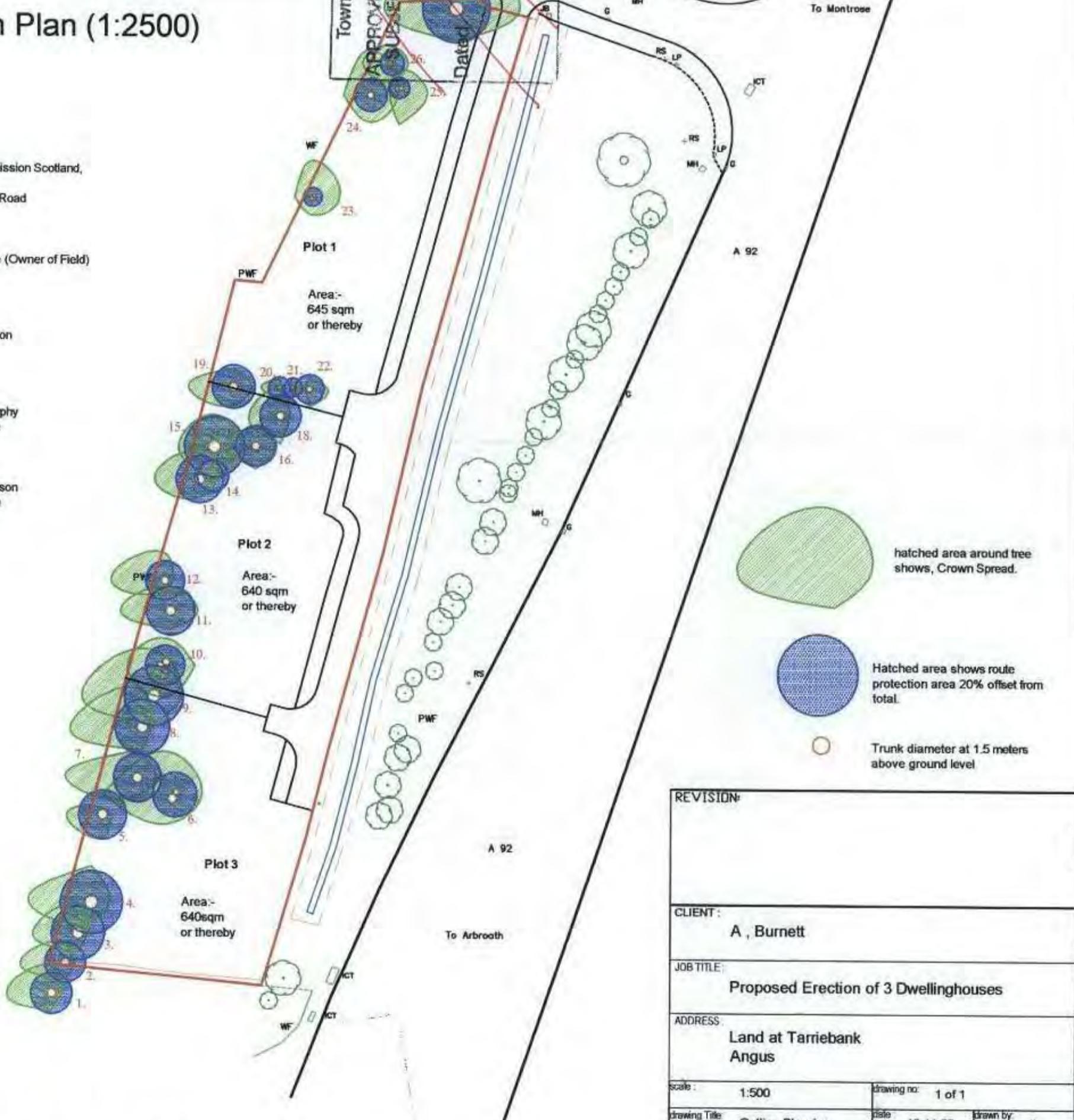
**REFUSED**



## Location Plan (1:2500)

#### **Neighbours:**

1. Forestry Commission Scotland,  
Silvan House  
231 Corstorphine Road  
Edinburgh  
EH12 7AT
  2. Mr & Mrs Torrie (Owner of Field)  
Tarriebank Farm  
Tarriebank  
Arbroath
  3. Mr & Mrs Johnson  
Robinhill  
Tarriebank  
Arbroath
  4. Mr & Mrs P Murphy  
Willowbank House  
Tarriebank  
Arbroath
  5. Mr & Mrs Anderson  
1 Tarriebank Place  
Tarriebank  
Arbroath



## Site Layout (1:500)

REVISION:			
<b>CLIENT:</b> A , Burnett			
<b>JOB TITLE:</b> Proposed Erection of 3 Dwellinghouses			
<b>ADDRESS:</b> Land at Tarriebank Angus			
scale :	1:500	drawing no:	1 of 1
drawing Title	Outline Planning	date	13.11.08
		drawn by	JL

JOHN D CRAWFORD Ltd

#### **Architectural Services**

72 NEW WYND MONTROSE  
ANGUS

ANSS  
DD10 8RF  
email : info@johndcrawford.co.uk  
01674 672064 Fax. 01674 672126

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE**

**11 AUGUST 2009**

**SUBJECT: PLANNING APPEAL DECISION  
LAND ADJACENT TO TARRIEBANK GARDENS, MARYWELL, ARBROATH, DD11 5RH**

**REPORT BY DIRECTOR OF INFRASTRUCTURE SERVICES**

**Abstract:** This report presents the findings of the Reporter appointed by the Scottish Ministers to determine the appeal against the refusal of Angus Council to grant consent for the outline erection of three dwellinghouses. The appeal was dismissed outline planning permission refused.

**1 RECOMMENDATION**

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

**2 INTRODUCTION**

2.1 Application No 08/01409/OUT for the outline erection of three dwellinghouses was refused on 12 March 2009. The applicant, Mr A Burnett appealed against the refusal and the Reporter's conclusions and decision are presented below.

**3 REPORTER'S DECISION**

3.1 The determining issues in this appeal are whether: (1) the proposal accords with the provisions of the development plan in respect of new houses in the countryside; and (2) there are any material considerations which warrant determining the appeal other than in accordance with those provisions. No structure plan policies have been drawn to my attention as relevant to this case. The site does not lie within a development boundary, as defined in the Angus Local Plan Review, which was adopted in February 2009. Policy S1(b) supports development outwith those boundaries (i.e. in the countryside) where they are of a scale and nature appropriate to the location **and** (my emphasis) they are in accordance with the relevant policies of the local plan.

3.2 The relevant policy in this case is SC6, which sets out four circumstances where new houses may be permitted in the countryside. With regards to the first of these, I do not consider that this development would constitute the consolidation or rounding off of the existing building group at this location, which comprises eight recently built houses in Tarriebank Gardens, the original house at Tarriebank (now a care home) and one other relatively modern house within its grounds. This group is reasonably well enclosed by mature trees and the present proposal would constitute a prominent extension of development southwards parallel to the A92 road to the east.

3.3 The site has a frontage of about 110 metres facing the A92. Although there is an existing house to the south, it does not constitute a gap site for the purposes of policy SC6(b); on which, in any event, only one new house would be permitted in a Category 1 Rural Settlement Unit (RSU), in which the site is located and where the aim is to restrict new housing development outwith settlements. It is not a rural brownfield site in terms of policy SC6(c). It was formerly occupied by a mature coniferous plantation, most of which has now been cleared following storm damage and is now covered in rough grass and other vegetation. There is no evidence that it has ever contained buildings and its current appearance is neither unsightly nor inappropriate to its rural location.

- 3.4 The final category of housing development permitted in the countryside relates only to Category 2 RSUs and is, thus, not relevant in this case. I therefore conclude that this proposal would not comply with policy SC6; and consequently, would also not accord with policy S1.
- 3.5 I find that the proposal is not consistent with the provisions of the development plan. Turning to other material considerations, I have already noted the presence of the group of modern houses at Tarriebank Gardens. Although I do not know the full circumstances of this development, it appears that permission for housing on that site was first granted as long ago as 1990, although the houses were not built until more recently. I do not consider that their existence establishes any precedent or justification for further housing in this rural location. To my mind, Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside, and the current proposal would effectively constitute ribbon development alongside the A92. Whilst new tree planting has been carried out next to that road, it will be many years before it would become effective in screening any development on the appeal site.
- 3.6 The greater encouragement for rural development contained in *SPP 15: Planning for Rural Development* is to be achieved principally through development plan policies, and I find no conflict between its objectives and the relevant policies in the recently adopted local plan. Overall, I find no material considerations that warrant determining this appeal other than in accordance with those policies.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

#### **5 HUMAN RIGHTS IMPLICATIONS**

- 5.1 There are no Human Rights implications.

#### **6 EQUALITIES IMPLICATIONS**

- 6.1 The issues dealt with in this Report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

**ERIC S LOWSON  
DIRECTOR OF INFRASTRUCTURE SERVICES**

**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 a material extent in preparing the above report.

## Directorate for Planning and Environmental Appeals

## Appeal Decision Notice

T: 01324 696 400

F: 01324 696 444

E: dpea@scotland.gsi.gov.uk



Decision by Michael Shiel, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/120/270
- Site address: Land adjacent to Tarriebank Gardens, Marywell, Arbroath DD11 5RH
- Appeal by Mr A Burnett against the decision by Angus Council.
- Application for outline planning permission no. 08/01409/OUT, dated 13 November 2008, refused by notice dated 12 March 2009.
- The development proposed: Erection of three dwellinghouses.
- Date of site visit by Reporter: 3 June 2009

Date of appeal decision: 14 July 2009

## Decision

I dismiss the appeal and refuse outline planning permission.

## Reasoning

1. The determining issues in this appeal are whether: (1) the proposal accords with the provisions of the development plan in respect of new houses in the countryside; and (2) there are any material considerations which warrant determining the appeal other than in accordance with those provisions. No structure plan policies have been drawn to my attention as relevant to this case. The site does not lie within a development boundary, as defined in the Angus Local Plan Review, which was adopted in February 2009. Policy S1(b) supports development outwith those boundaries (i.e. in the countryside) where they are of a scale and nature appropriate to the location **and** (my emphasis) they are in accordance with the relevant policies of the local plan.

2. The relevant policy in this case is SC6, which sets out four circumstances where new houses may be permitted in the countryside. With regards to the first of these, I do not consider that this development would constitute the consolidation or rounding off of the existing building group at this location, which comprises eight recently built houses in Tarriebank Gardens, the original house at Tarriebank (now a care home) and one other relatively modern house within its grounds. This group is reasonably well enclosed by mature trees and the present proposal would constitute a prominent extension of development southwards parallel to the A92 road to the east.

3. The site has a frontage of about 110 metres facing the A92. Although there is an existing house to the south, it does not constitute a gap site for the purposes of policy SC6(b); on which, in any event, only one new house would be permitted in a Category 1 Rural Settlement Unit (RSU), in which the site is located and where the aim is to restrict new housing development outwith settlements. It is not a rural brownfield site in terms of policy SC6(c). It was formerly occupied by a mature coniferous plantation, most of which has now been cleared following storm damage and is now covered in rough grass and other vegetation. There is no evidence that it has ever contained buildings and its current appearance is neither unsightly nor inappropriate to its rural location.

4. The final category of housing development permitted in the countryside relates only to Category 2 RSUs and is, thus, not relevant in this case. I therefore conclude that this proposal would not comply with policy SC6; and consequently, would also not accord with policy S1.

5. I find that the proposal is not consistent with the provisions of the development plan. Turning to other material considerations, I have already noted the presence of the group of modern houses at Tarriebank Gardens. Although I do not know the full circumstances of this development, it appears that permission for housing on that site was first granted as long ago as 1990, although the houses were not built until more recently. I do not consider that their existence establishes any precedent or justification for further housing in this rural location. To my mind, Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside, and the current proposal would effectively constitute ribbon development alongside the A92. Whilst new tree planting has been carried out next to that road, it will be many years before it would become effective in screening any development on the appeal site.

6. The greater encouragement for rural development contained in *SPP 15: Planning for Rural Development* is to be achieved principally through development plan policies, and I find no conflict between its objectives and the relevant policies in the recently adopted local plan. Overall, I find no material considerations that warrant determining this appeal other than in accordance with those policies.

*This is a true and certified copy of the decision issued on 14 July 2009.*

MICHAEL D SHIEL  
Reporter

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

(AS AMENDED)

**TOWN AND COUNTRY PLANNING (DEVELOPMENT  
MANAGEMENT PROCEDURE) (SCOTLAND)  
REGULATIONS 2008****PLANNING PERMISSION IN PRINCIPLE REFUSAL  
REFERENCE 11/01115/PPPL**

To      **Mr Alistair Burnett**  
 c/o John D Crawford Ltd  
 72 New Wynd  
 Montrose  
 Angus  
 DD10 8RF

With reference to your application dated 21 November 2011 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

**Planning Permission in Principle for Erection of a Dwellinghouse at Land Adjacent To Tarriebank Gardens Tarriebank Arbroath for Mr Alistair Burnett**

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

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

- 1 The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road.
- 2 The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference P/PPA/120/270 into the landscape strip that has been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion e) of Schedule 2 in the Angus Local Plan Review and consequently does not conform to Policy SC6 in the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria.
- 3 The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue if its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy S1 in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.

Head of Planning and Transport,  
Infrastructure Services,  
County Buildings,  
Market Street,  
FORFAR.  
DD8 3LG

**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.**

## 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
Development Standards Committee/Full Council	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>
Delegated Decision	Local developments determined by the Head of Planning & Transport 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>
Other Decision	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>

**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:

The Planning & Transport Division  
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 2008 – 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 to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from 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, whether by the Planning Authority or by the Scottish Ministers, 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 2008 – 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 to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval 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 from the date of this Notice. The notice of review should be addressed to Elaine Whittet, Committee Officer, Angus Council, Corporate Services, Law & Administration Division, Angus House, Orchardbank Business Park, Forfar, DD8 1AN. A Notice of Review Form and guidance can be found on the national e-planning web site <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.

**INFRASTRUCTURE  
SERVICES  
DEPARTMENT**

**Your experience with the Planning & Transport Division**

*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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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?**

Very satisfied	Fairly satisfied	Neither Satisfied nor Dissatisfied	Fairly Dissatisfied	Very Dissatisfied
<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  Refused Permission/Consent  Withdrawn

**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.

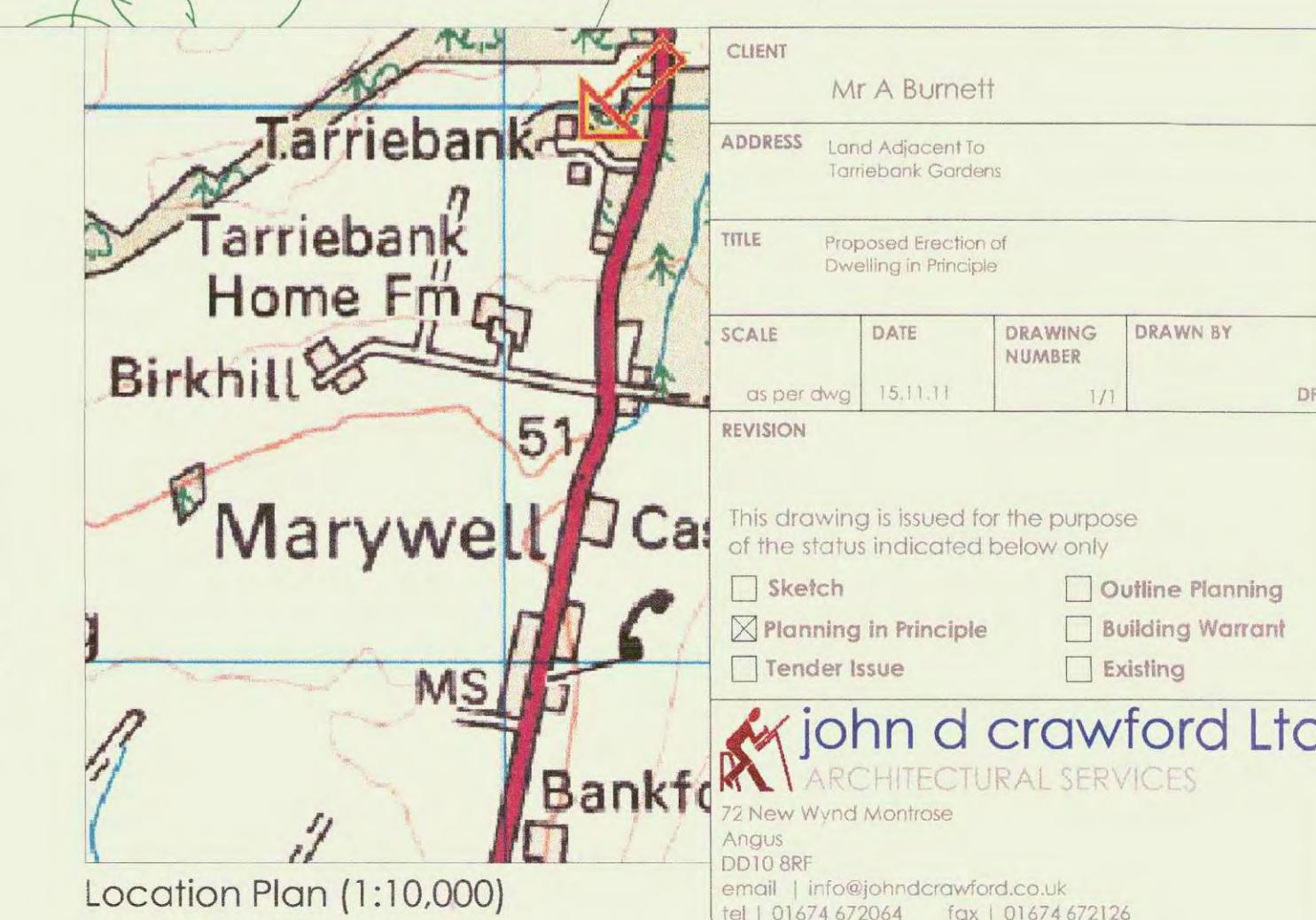
# REFUSED



# REFUSED

SPECIFICATION  
This drawing is solely for the purposes of obtaining Planning Approval. The drawing may be suitable for constructional purposes but it may be necessary to augment/and or amend this information. No liability will be accepted for any omission should the drawing be used for constructional purposes.

Do not scale this drawing.



## REPORT OF HANDLING

<b>Application Number:</b>	11/01115/PPPL
<b>Description of Development:</b>	Planning Permission in Principle for Erection of a Dwellinghouse
<b>Postal Address:</b>	Land Adjacent To Tarriebank Gardens Tarriebank Arbroath
<b>Name of Applicant:</b>	Mr Alistair Burnett

**Details of any variation under Section 32A:**

None.

**Representations:**

No representations received.

**Policies:**

The Dundee and Angus Structure Plan:

The application is not strategically significant and the policies of the Structure Plan are not referred to in this report.

The Angus local Plan Review

Policy S1: Development Boundaries

Policy S6: Development Principles

Policy S3: Design Quality

Policy SC6: Countryside Housing: New Houses

**Supplementary Planning Guidance:**

Advice Note 5: Houses in the Open Countryside

**Officer Report:**

**Publicity:**

Statutory advertisement in respect of neighbour notification has been undertaken. The time period for third party comment has now expired.

**Consultation Responses:**

The Head of Roads offers no objection to the proposal but has suggested a condition relating to the standard of the footway crossing at the access should the application be approved.

Scottish Water has no objection to the proposal.

The Community Council offers no comment on the proposal.

**Supporting Statement:**

A Supporting Planning Statement has been submitted in support of the application. The supporting statement details the proposal and highlights the relevant Development Plan Policies. An assessment of the proposal against the highlighted policies is given by the applicant's consultant. An appeal decision relating to a wider site of which the application site is part is also highlighted (P/PPA/120/270). The consultant

highlights the differences between the current proposal and the proposal that was subject of that appeal decision.

The report concludes that it is the opinion of the consultant that the proposal would be in keeping with the character and scale of the surrounding area and that the site is a gap site in terms of Local Plan definitions. It is further opined that a dwelling could be accommodated in a manner that would enhance the local landscape and the entrance to Tarriebank and that all existing tree planting in the site would be retained and augmented.

It is further stressed that the application is different in character and nature to the proposal submitted under ref: 08/01409/OUT which was subsequently dismissed on appeal (P/PPA/120/270) and it is the stated opinion of the applicants consultant that the proposed development would not be out of keeping with the pattern of development in the area and planning conditions could be imposed to ensure a satisfactory site layout, density, scale and design in any subsequent application.

#### Site History:

Planning application ref: 07/01602/OUT for the erection of three additional dwellings was withdrawn on 14 January 2008 prior to determination.

The site forms a part of a wider site taking in land to the south that formed the subject of planning application ref: 08/01409/OUT which was refused on 12 March 2009 for the following reasons:

- 1 That the application is contrary to Policy SC6 of the adopted Angus Local Plan Review (2009) as the proposal is not for a single house to round off or consolidate a building group (criterion a), is not for a single house on a gap site (criterion b), is not a redundant rural brownfield site (criterion c) and is not located within a Category 2 Rural Settlement Unit (criterion d).
- 2 That the application is contrary to criterion (a) and (b) of Schedule 2: Countryside Housing Criteria of the adopted Angus Local Plan Review (2009) as the site is not self contained and is larger than 2000 square metres.
- 3 That the development proposed is contrary to Policy S1 of the adopted Angus Local Plan Review (2009) as a result of the failure of the proposal to satisfy the policy test of Policy SC6.

A subsequent appeal (P/PPA/120/270) was dismissed as the proposal was found to be inconsistent with Development Plan policies. In summing up the Reporter stated:

'I do not consider that [the] existence [of Tarriebank Gardens] establishes any precedent or justification for further housing in this rural location. To my mind Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside'

#### Discussion:

The applicant seeks planning permission in principle for the erection of a dwelling on a site measuring around 1270 sq m that is located at Tarriebank, north of Arbroath. The site lies at the north of a recently augmented roadside woodland strip that now consists of a scrubland area with thinly dispersed mature trees and new tree planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre.

Tarriebank lies to the west of the A92 Road and consists of a traditional country house that is currently operated as a residential care home for the elderly. A recently erected housing development consisting of eight modern detached dwellings lies to the east of the former country house. The development known as Tarriebank Gardens has a fairly long planning history but essentially has come into being following the granting of a Certificate of Lawful Use/Development (00/00991/CLU) that established that planning permission ref: 01/90/0597 for the erection of five dwellings had been initiated and was therefore extant. One further dwelling (Willowbank House) that offers B&B accommodation lies to the south of the access into Tarriebank House.

The access into Tarriebank is a formal bellmouth junction with the A 92 Road. Residential curtilages are set back from the junction with the primary route at a distance of around 40 meters on both sides of the intersection.

Policy S1 in the Angus local Plan Review presumes in favour of new development in the countryside where proposals are appropriate in scale and kind to their surroundings and where other relevant local plan policies are conformed to. As an application relating to the development of a single dwelling on a countryside site the main relevant policy is Policy SC6 which is specifically relevant to the issue of new dwellings in the countryside.

The site lies within the Rural Settlement 1 (RSU 1) area of the Angus Countryside and consideration of the proposal under SC6 (d) is therefore precluded as this part of the policy only applies to sites within the RSU 2 area. SC6 (a) – (c) are therefore the available policy references in this case.

It is considered that Policy SC6 (a) relates to proposals that would round off or consolidate existing building groups and is of no relevance in this case as the site would extend the building group. Similarly the consideration under Policy SC6 (c) is precluded as this part of SC6 refers to Rural Brownfield Sites i.e. sites that have been previously developed which are usually characterised by sites that are occupied by redundant land and buildings or sites where the land has been significantly degraded by a former activity. There is no evidence of previous development having taken place on the site either through historical mapping records, aerial photography or evidence on site. The dismissal of planning appeal reference P/PPA/120/270 has already dismissed any suggestion that the site has any credentials as a brownfield site and this situation has not altered in the intervening period.

Policy SC6 (b) relates to the consideration of Gap Sites i.e. sites which form the space between the curtilages of two dwellings or the space between the curtilage of one dwelling and a metalled road where the site has established boundaries on three sides. The site lies between a curtilage and a metalled road and could theoretically be considered to be a gap site as the proposal is for a single dwelling. There is an existing curtilage boundary to the west and the north and east boundaries of the site are contained by existing metalled roads. As well as the foregoing, part b) of Policy SC6 also requires that Schedule 2 Countryside Housing Criteria be taken into account in considering the proposal.

The proposed site is considered to be self contained in terms of Criterion a) of Schedule 2. There are no obvious sites that could lead to further development of a similar nature in terms of current local plan policy and any further proposals would fall to be considered on their own merits. The size of the site falls within the plot size tolerances of Criterion c) and as a gap site the proposal would not extend or contribute to ribbon development.

No coalescence of existing groups would result from the proposal in terms of Criterion d). Criterion e) requires proposals to have regard to rural character and not to be urban in form and appearance. With this in mind attention is turned to paragraph 5 of the decision in respect of dismissed appeal ref: P/PPA/120/270, the reporter states:

'I do not consider that [the] existence [of Tarriebank Gardens] establishes any precedent or justification for further housing in this rural location. To my mind Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside'

In this respect it is considered that the Reporter has deemed that any further development along the roadside at Tarriebank would constitute an extension of what may be considered to be an undesirable development form that exists as an anomaly resulting from site history as an exception to the general rule where countryside housing is concerned. On a similar note Policy S3 is relevant to the consideration of the proposal.

Policy S3 requires that the site location and how the development fits with the local landscape character and pattern of development are taken into account. While the application is for planning permission in principle, the detail of site location would be established at this stage so it is possible to consider this test. At present built development is set back from the A92 Road by a young woodland strip of around 40 metres in width on both sides of the access into Tarriebank. Some replanting has taken place within these strips which were established in order to reduce the impact of the Tarriebank Gardens scheme from the A92 Road. A point which was noted by the Reporter in the consideration of appeal ref: P/PPA/120/270.

The area in question was in fact subject of an approved native planting scheme which was conditional of planning permission 04/01722/FUL which is the planning permission that established Tarriebank Gardens as

built in order to soften the edge of the development which was established for reasons of planning history and which although relatively well executed is nonetheless something of an anomaly in the rural scene. In proposing to erect a dwelling within the planting strip that was established for amenity reasons as part of the scheme that established Tarriebank Gardens, the proposal would represent a deviation from the existing development pattern by bringing built development into the as yet immature amenity planting strip that was established in order to reduce the visual impact of Tarriebank Gardens. On this basis the proposal is contrary to Policy S3. It is also considered that the proposal would extend a form of development that the Reporter in respect of appeal ref: P/PPA/120/270 considered to be incongruous and urban in character. While this is the Reporter's opinion, it is accepted that while well executed, the Tarriebank Gardens development which came into being as a result of the planning history of the site is not a development form that would typically be encouraged in a rural area under the current countryside housing regime. Despite the best effort of the developer the development does exhibit a fairly urban character at present that the existing planting strip should soften as it matures and as such the proposal is contrary to Criterion e) of Schedule 2 as it would extend the development form into the strip that has been established as a mitigation measure in respect of the Tarriebank Gardens development. There are no matters in respect of the remaining criteria of Schedule 2 that require detailed examination on this basis.

In conclusion, while the site that is proposed for housing development is technically capable of meeting the gap site definition that accompanies Policy S6, it is noted that sites are not only required to meet Policy S6 criteria but Schedule 2 criteria also. Furthermore Policy S1 is supportive of new development in the countryside where it is appropriate in scale and form and where it complies with other relevant local plan policies. The proposal is considered to be inappropriate in form and is contrary to Policy S3, as well as Policy SC6 by failing to meet with Schedule 2 requirements. The proposal is therefore not in accordance with Policy S1. Material considerations in the form of appeal decision P/PPA/120/270 which highlights the undesirability of encroaching into a young amenity planting strip and the purpose of that planting strip that was established through planning permission ref: 04/01722/FUL are also relevant to the consideration of the proposal and any extension of the built form of the Tarriebank development towards the Primary A92 route can only therefore be considered as an extension of a fairly urban development form in the countryside that would reduce the future effectiveness of the fledgling planting scheme and set an undesirable precedent for similar reciprocal development in the area to the north.

The application is therefore refused for the flowing reasons:

**Reasons upon which decision is based:**

The application is refused for the flowing reasons:

**Reasons:**

1. The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road.
2. The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference P/PPA/120/270 into the landscape strip that has been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion e) of Schedule 2 in the Angus Local Plan Review and consequently does not conform to Policy SC6 in the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria.
3. The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue if its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy S1 in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.

SCH/SF



6 June 2012

Fox Planning Consultancy  
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 LANCS  
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Dear Ms Fox

**Application No 11/01115/PPPL**

**Application for Review – Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath**

**DMRC-40-2012**

I refer to the above and write to advise that the Development Management Review Committee made its final decision in relation to the Review on 29 May 2012.

A copy of the Decision Notice is enclosed for your information.

If you require any further information please do not hesitate to contact Sarah Forsyth on 01307 476269 or e-mail [ForsythSL@angus.gov.uk](mailto:ForsythSL@angus.gov.uk).

Yours sincerely



Sheona C Hunter  
 Head of Law & Administration

Enc.

Development Management Review Committee

DMRC – 29 May 2012

Review Decision Notice

---

Decision by Development Management Review Committee (DMRC)

- Site Address: Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath
- Application for review by Fox Planning Consultancy on behalf of Mr Alistair Burnett
- Application No. 11/01115/PPPL for Planning Permission in Principle for the Erection of a Dwellinghouse on Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath
- Application Drawings: Application Site Plan

Date of Decision Notice: 6 June 2012

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Decision

The DMRC upheld the decision taken by the Head of Planning and Transport and dismissed the review.

**Preliminary**

1. This notice constitutes the formal Decision Notice of the Development Management Review Committee as required by the Town & Country Planning (Scheme of Delegation and Local Review Procedures) (Scotland) Regulations 2008.
2. The above application for planning permission in principle was considered by the DMRC on 29 May 2012. The Committee was attended by Councillor David Lumgair (Chair), Councillor Bill Bowles, Councillor Jeanette Gaul, Councillor Alex King, and Councillor Bob Spink.

**Proposal**

3. Planning permission in principle was sought for the erection of a dwellinghouse on a site of approximately 1270 square metres located at Tarriebank, north of Arbroath. The site lies at the north of a recently augmented roadside woodland strip that now consists of a scrubland area with thinly dispersed mature trees and new tree planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre.

4. Tarriebank lies to the west of the A92 road and consists of a traditional country house that is currently operated as a residential care home for the elderly. A recently erected housing development consisting of eight modern detached dwellings lies to the east of the former country house. The residential dwelling, Willowbank House, lies to the south of the access into Tarriebank House. The access into Tarriebank is a formal bellmouth junction with the A92 road.

### **Reasoning**

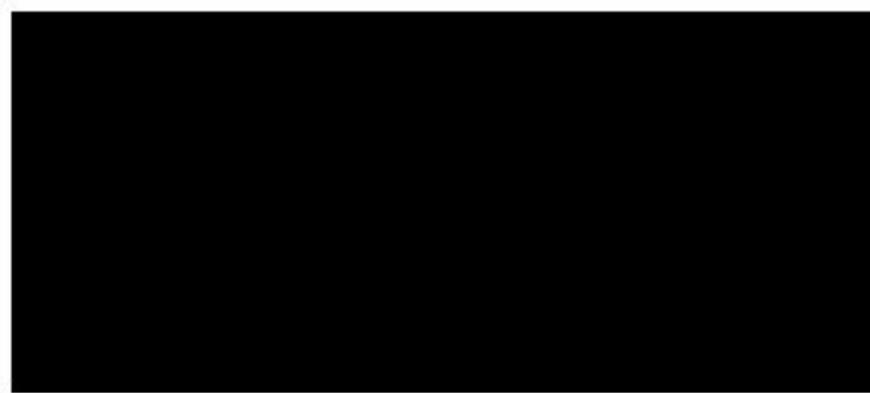
5. The determining issues in this review were:-
  - (1) whether the proposal would accord with the provisions of the Development Plan;
  - (2) whether there were any other material considerations which should be taken into account.
6. The DMRC considered the papers submitted by the applicant and the planning authority and determined that they had sufficient information to come to a decision.
7. The DMRC noted the planning history in relation to Tarriebank and in particular in relation to a previous appeal a Reporter had concluded that Tarriebank Gardens appears as a somewhat incongruous suburban development in the countryside. It was considered by the DMRC that Policy S3 was relevant to the consideration of the proposal. Policy S3 requires that the site location and how the development fits with the local landscape character and pattern of development are taken into account. It was noted that at present the built development is set back from the A92 road by a young woodland strip of around 40 metres in width on both sides of the access into Tarriebank. Some replanting has taken place within these strips which were established in order to reduce the impact of a Tarriebank garden scheme from the A92 road. It was noted by the DMRC that the area in question was in fact subject of an approved native planting scheme which was conditional of planning permission 04/01722/FUL which is the planning permission that established Tarriebank Gardens and this planted strip was important in attempting to reduce the visual impact of Tarriebank Gardens. It was considered by the DMRC that the granting of planning consent would represent a deviation from the existing development pattern and would extend an urban development form in a countryside location into a landscaped strip that was required in the interests of amenity. In so doing the landscape buffer between the existing built development and the A92 road would be severely compromised.
8. In conclusion the DMRC considered that the proposed development by virtue of its location was inappropriate and was not in compliance with Policies SC6, S3 or S1 of the Angus Local Plan Review 2009. There were no other material considerations that warranted approval of the application.

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

**Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)**

**Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
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 V of the Town and Country Planning (Scotland) Act 1997 (As Amended).



# SUPPORTING STATEMENT

ERECTION OF DWELLING HOUSE

at

**Tarriebank Gardens  
Marywell  
Arbroath  
DD11 5RD**

Prepared by

**Derek Scott Planning  
Planning and Development Consultants**



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On behalf of

**Mr. Alistair Burnett**

# Executive Summary

## ERCTION OF DWELLING HOUSE AT TARRIEBANK GARDENS, MARYWELL, ARBROATH DD11 5RD

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- The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell, near Arbroath. The existing building group includes ten detached dwelling houses and Tarriebank House Care Home.
- The site, which measures c.1112 sq. metres, is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.
- The application submitted seeks planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is suggested for retention along the boundary with the A92 with a vertically boarded timber fence and hedging on the inner (western edge) defining the boundary of its garden area. It is suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.
- Policy TC2 of the Angus Local Development Plan along with the Council's Supplementary Guidance on Countryside Housing supports the erection of a single new house in countryside locations in situations where it would round off an established building group of 3 or more existing dwellings or buildings capable of conversion to residential use. It also supports the erection of a dwelling house where it involves the development of a '*gap site*', which for the area in which the site is located, is defined as a site between the curtilage of two existing residential properties or the curtilage of one dwelling and a metalled road.
- The application site is of a '*gap*' nature having clearly defined boundaries on three of its four sides. It is bounded to the north by the access road into Tarriebank Gardens; to the east by the A92; and to the west by the timber fenced boundary with the neighbouring property, Willowbank House. The site also benefits from a very strong and coherent relationship with the established group of buildings at Tarriebank appearing as a logical addition to that and rounding the group off in a manner which will result in a significant improvement to its setting and improving views into and out of it.

- An application for planning permission in principle for the erection of a dwelling house on the site was previously refused by the Council's Planning Department and a request to review that decision dismissed by the Council's Development Management Review Committee (Reference Number 11/0115/PPPL). The three reasons for the refusal of that application erroneously referred to the fact that the dwelling house was proposed on an area of landscaping required to be provided as part of the original Tarriebank Gardens Development which was approved in August 2005 under Planning Application Reference Number 04/01722/FUL. An examination of the plans relating to that development have revealed that the dwelling house was proposed on an area of ground to the west of the landscaping strip rather than within the landscaping strip as claimed.
- The quality and maintenance of the landscaping undertaken on the site in response to conditions imposed on Planning Application Reference Number 04/01722/FUL has been generally poor. The current proposal will ensure that additional landscaping is undertaken within a 10.5 metre strip next to the A92 which will create a setting not only for the dwelling house currently proposed but for the entire Tarriebank Gardens Development.
- Based on our consideration of the development plan and all other material considerations it is our considered opinion that permission should be granted for the dwelling house as applied for.

# SUPPORTING STATEMENT

**ERCTION OF DWELLING HOUSE AT TARRIEBANK GARDENS, MARYWELL, ARBROATH  
DD11 5RD**

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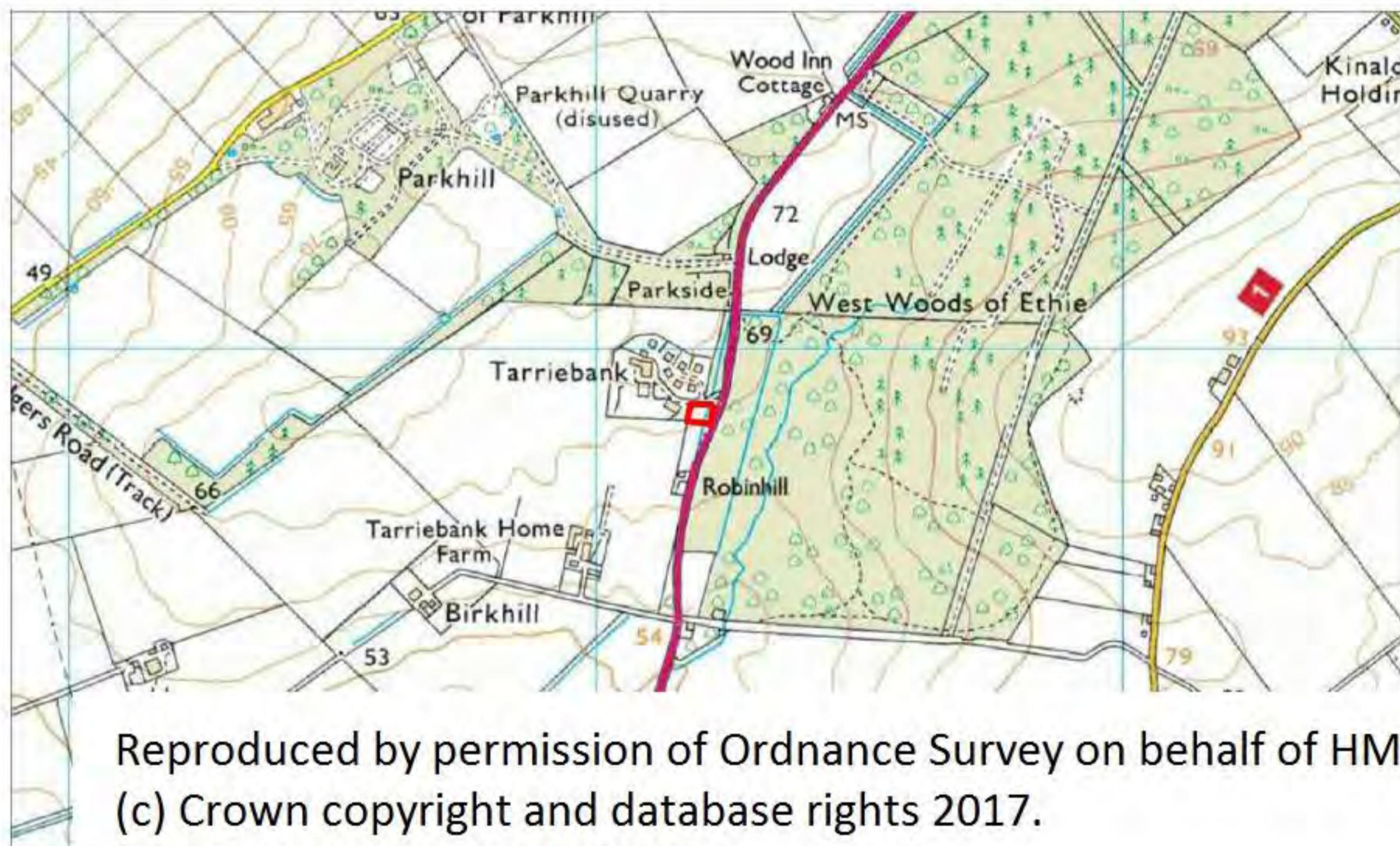
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# SUPPORTING STATEMENT

## ERCTION OF DWELLING HOUSE AT TARRIEBANK GARDENS, MARYWELL, ARBROATH DD11 5RD

### 1. INTRODUCTION

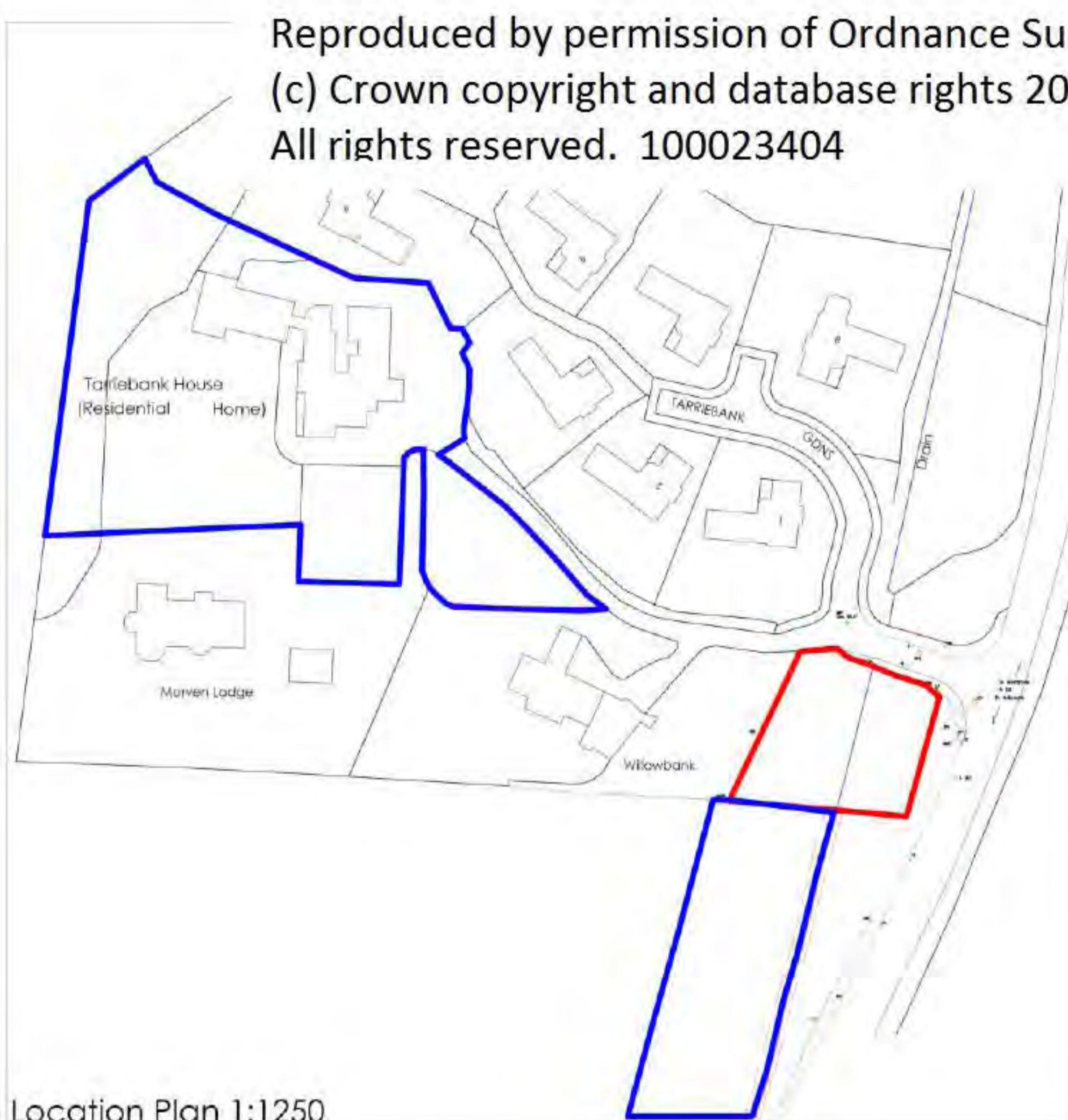
- 1.1 This statement has been prepared by Derek Scott Planning, Chartered Town Planning and Development Consultants on behalf of our client, Mr. Alistair Burnett. It is in support of an application for the erection of a dwelling house at Tarriebank Gardens, Marywell, Arbroath, DD11 5RD.



*Location Plan*

## 2. LOCATION AND DESCRIPTION OF SITE

- 2.1 The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell. The existing building group includes ten detached dwelling houses and Tarriebank House Care Home.
- 2.2 The site, which measures c.1112 sq. metres is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.



*Location Plan (Site Outlined in Red)*



*Tarriebank Gardens*



*View Looking south towards site from Tarriebank Gardens*



*Looking south towards application site from A92*



*Willowbank House*



*Site cleared of scrub*

### 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 The application submitted seeks planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is suggested for retention along the boundary with the A92 with a vertically boarded timber fence on the inner (western edge) defining the boundary of the useable private garden space. It is suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.

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## 4. PLANNING POLICY

4.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that:

*'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.'*

4.2 In the context of the above it is worth making reference to the House of Lord's Judgement on the case of the City of Edinburgh Council v the Secretary of State for Scotland 1998 SLT120. It sets out the following approach to deciding an application under the Planning Acts:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;
- identify and consider relevant material considerations, for and against the proposal; and
- assess whether these considerations warrant a departure from the development plan.

4.3 The relevant development plan for the area comprises the Strategic Development Plan for Dundee, Angus, Perth and North Fife (Tay Plan) and the adopted Angus Local Development Plan. Other key material considerations in the determination of the application include Scottish Planning Policy; Planning History; Tay Plan – The Proposed Strategic Development Plan 2015; and the Council's Supplementary Guidance on Countryside Housing.

**Strategic Development Plan for Dundee, Angus, Perth and North Fife (TayPlan)**  
 4.4 The Strategic Development Plan for Dundee, Angus, Perth and North Fife (Tay Plan) was approved by Scottish Ministers in June 2012 and sets out proposals for the development of the region in the period between 2012 and 2032. This plan provides the strategic framework for the determination of planning applications and the preparation of local plans. However it contains no specific policies or proposals of direct relevance to either the site or the proposed development and as such merits no further comment in the context of the application proposals.



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

4.5 The Angus Local Development Plan was adopted by Angus Council in September 2016. The application site lies within a 'Countryside Housing Category 1 Area.' Policy TC2 on 'Residential Development' states the following:

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

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

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

- *is not allocated or protected for another use;*
- *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:*

- *retention, renovation or acceptable replacement of existing houses;*
- *conversion of non-residential buildings;*
- *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;*
- *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*
- *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:*

- *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.*
- *the restoration or replacement of traditional buildings.*
- *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.'*

4.6 Our client's application is considered to be supported by and in compliance with the terms of Policy TC2 as it has a strong visual and coherent relationship with the established group of buildings at Tarriebank Gardens. It also has the characteristics of a gap site situated as it is between two metalled roads (the A92 and Tarriebank Gardens) and the neighbouring property, Willowbank House.

4.7 Other policies within the Plan which are of relevance to the application under consideration include the following:

Policy DS1 – Development Boundaries and Priorities

Policy DS3 – Design Quality & Place making

Policy DS4 – Amenity

Policy PV6 – Development in the Landscape

4.8 Policy DS1 on '*Development Boundaries and Priorities*' states the following:

*'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 green field 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*

4.9 The application proposals involve the development of a gap site located between an established group of buildings (ten dwelling houses and a care home) and two metalled roads (the A92 and Tarriebank Gardens). It will appear as a logical addition to that group and contribute to rather than detract from the character of the area. As the proposal complies with Policy TC2 it follows that it also complies with Policy DS1.

4.10 Policy DS3 on '*Design Quality and Place Making*' states the following:

*'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:*

- *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.
- *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.
- *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 are set out in 'Designing Street's are addressed.
- *Adaptable –* Where development is designed to support a mix of compatible uses and accommodating changing needs.
- *Resource Efficient:* Where development makes good use of existing resources and is sited and designed to minimize environmental impacts and maximize 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.'*

4.11 Whilst many of the criteria mentioned in Policy DS3 above relate to larger scale developments than that proposed; and to urban rather than rural locations, it is evidently clear that a dwelling house can be comfortably accommodated on this site appearing as a logical addition to the existing building group and being contained within the strong boundaries established by the A92, Tarriebank Gardens and the neighbouring property to the west. An appropriately designed house in this location will contribute positively to the character and appearance of the area.

4.12 Policy DS4 on '*Amenity*' states the following:

*'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.'*

4.13 A dwelling house is clearly capable of being accommodated on this site and can be provided with acceptable levels of amenity. Similarly the erection of a house on the site will not result in adverse impacts on amenity levels at the nearest existing residential property (Willowbank House).

4.14 Policy DV6 on '*Development in the Landscape*' states the following:

*'Angus Council will seek to protect and enhance the quality of the landscape in Angus, its diversity (including coastal, agricultural lowlands, the foothills and mountains), its distinctive local characteristics, and its important views and landmarks.*

*Capacity to accept new development will be considered within the context of the Tayside Landscape Character Assessment, relevant landscape capacity studies, any formal designations and special landscape areas to be identified within Angus. Within the areas shown on the proposals map as being part of 'wild land', as identified in maps published by Scottish Natural Heritage in 2014, development proposals will be considered in the context of Scottish Planning Policy's provision in relation to safeguarding the character of wild land.*

*Development which has an adverse effect on landscape will only be permitted where:*

- *the site selected is capable of accommodating the proposed development;*
- *the siting and design integrate with the landscape context and minimize adverse impacts on the local landscape;*
- *potential cumulative effects with any other relevant proposal are considered to be acceptable; and*
- *mitigation measures and/or reinstatement are proposed where appropriate.*

*Landscape impact of specific types of development is addressed in more detail in other policies in this plan and work involving development which is required for the maintenance of strategic transport and communications infrastructure should avoid, minimize or mitigate any adverse impact on the landscape.*

*Further information on development in the landscape, including identification of special landscape and consideration areas in Angus will be set out in a Planning Advice Note.'*

- 4.15 The application site benefits from established boundaries on three of its four sides (the A92, Tarriebank Gardens and Willowbank House). The addition of further landscaping, as suggested, will ensure that any dwelling house proposed will integrate with the landscape and not result in an adverse effect on it, thus complying with the requirements of Policy PV6.
- 4.16 In light of the considerations outlined above we are very firmly of the opinion that the proposal is entirely compliant with the terms of the development plan and therefore meets the requirements of the first part of Section 25 in the Planning Act.

#### **Other material considerations**

- 4.17 There are a number of other material considerations which must be addressed in the consideration of this Planning Application including Scottish Planning Policy; Tay Plan – The Proposed Strategic Development Plan 2015; Planning History; and the Council's Supplementary Guidance on '*Countryside Housing*'.

#### ***Scottish Planning Policy***

- 4.18 Scottish Planning Policy was published by the Scottish Government in June 2014 with its purpose stated as being '*to set out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land.*' Paragraph 75 of SPP advises that the Planning System should:

- *in all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;*
- *encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and*
- *support an integrated approach to coastal planning.*

- 4.19 Paragraph 81 of the SPP states the following:

*'In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:*

- *guide most new development to locations within or adjacent to settlements; and*
- *set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.*

4.20 Paragraph 83 of the SPP states the following:

*'In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:*

- *encourage sustainable development that will provide employment;*
- *support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;*
- *include provision for small-scale housing ( including clusters and groups; extensions to existing clusters and groups; replacement housing; plots for self-build; holiday homes; new build or conversion linked to rural business) and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;*
- *where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies;*
- *not impose occupancy restrictions on housing.'*

4.21 It is evidently clear from the above extracts that there is a strong level of support for appropriate forms of development in rural areas advocated in Scottish Planning Policy. The dwelling house proposed by our client, which, as we have demonstrated previously, is supported by the terms of the Angus Local Development Plan, is clearly considered appropriate in the context described.

#### **Tay Plan – The Proposed Strategic Development Plan**

4.22 The Proposed Strategic Development Plan for Dundee, Angus, Perth and North Fife (Tay Plan) was published in May 2015 and submitted to Scottish Ministers in June 2016. It sets out proposals for the development of the region in the period between 2016 and 2036. The Report into the examination of the plan was submitted to Scottish Ministers in March 2017 who will approve it with or without modifications. This plan, when approved, will provide the strategic framework for the determination of planning applications and the preparation of local plans. However it contains no specific policies or proposals of direct relevance to either the site or the proposed development and as such merits no further comment in the context of the application proposals.



- Planning History**
- 4.23 There is a long and somewhat complicated planning history associated with the properties at Tarriebank Gardens. Outline planning permission was originally granted for the erection of eight dwelling houses within the curtilage of Tarriebank House on 20<sup>th</sup> October 2003 under Planning Application Reference Number 03/00825/OUT. A subsequent detailed application for the erection of eight dwelling houses was granted planning permission on 26<sup>th</sup> August 2005 under Planning Application Reference Number 04/01722/FUL. The red line boundary relating to that application (04/01722/FUL) incorporated the lands on the eastern side of the drainage ditch within the current application site but did not include the lands on its western side.
- 4.24 The permission granted under Planning Application Reference Number 04/01722/FUL contained a condition which required the submission, approval and subsequent implementation of a landscaping scheme for the overall site which included those triangular shaped lands to the south of the access road to Tarriebank Gardens and on the eastern side of the drainage ditch that runs through the application site. That landscaping scheme which implemented has not established itself particularly well.
- Planning Application Reference Number 08/01409/OUT**
- 4.25 An application for outline planning permission for the erection of three dwelling houses on the land to the south of the access road, which the current application site lies within, was refused by the Council on 12<sup>th</sup> March 2009 for the following reasons:
- 1 *That the application is contrary to Policy SC6 of the adopted Angus Local Plan Review (2009) as the proposal is not for a single house to round off or consolidate a building group (criterion a), is not for a single house on a gap site (criterion b), is not a redundant rural brownfield site (criterion c) and is not located within a Category 2 Rural Settlement Unit (criterion d).*
  - 2 *That the application is contrary to criterion (a) and (b) of Schedule 2: Countryside Housing Criteria of the adopted Angus Local Plan Review (2009) as the site is not self contained and is larger than 2000 square metres.*
  - 3 *That the development proposed is contrary to Policy S1 of the adopted Angus Local Plan Review (2009) as a result of the failure of the proposal to satisfy the policy test of Policy SC6.*
- 4.26 A subsequent appeal against that refusal was dismissed by a Reporter from the Directorate for Planning and Environmental Appeals in the Scottish Government (Reference Number P/PPA/120/270). The appointed Reporter considered the eight dwelling houses granted permission under Planning Application Reference Number 04/01722/FUL with a number of subsequent amendments and subsequently developed appeared as a somewhat incongruous suburban development in the countryside. He agreed with the Council's decision and dismissed the appeal for, in summary, the following concerns:
- (i) The proposal would constitute a prominent extension of development southwards parallel to the A92 road to the east;
  - (ii) The site was neither a gap/infill opportunity or brownfield in nature; and
  - (iii) The proposal would effectively constitute ribbon development alongside the A92.



*2008 application sought permission for 3 houses on significantly larger site*

- 4.27 The current proposal is significantly different to 2008 proposal as it seeks planning permission in principle for a single dwelling house on a significantly smaller and definite gap site with plot boundaries aligning with the north and south boundaries of the adjacent house to the west (Willowbank House).

**Planning Application Reference Number 11/01115/PPPL**

- 4.28 An application for the erection of a dwelling house on the current application site (albeit with slightly different boundaries), was refused by the Council under delegated powers on 12<sup>th</sup> March 2009 (Planning Application Reference Number 11/01115/PPL). That application which was accompanied by an indicative layout identified the erection of a dwelling house on the western side of the ditch running through the site. A subsequent request to the Council's Local Review Body upheld the decision taken by the Council's Head of Planning and Transport on 06<sup>th</sup> June 2012. The reasons for that refusal were as follows:

1. *The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road.*
2. *The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference number P/PPA/120/270 into the landscape strip that has*

been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion (e) of Schedule 2 in the Angus Local Plan Review and consequently does not confirm to Policy SC6 of the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria.

3. The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue of its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy SI in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.



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- Analysis of the Reporter's decision letter, the reasons for refusal referred to above and the decision notice issued by the Local Review Body reveals that all parties (the Reporter, the Planning Officer and the Development Management Review Committee) misinterpreted and misunderstood the area to which the landscaping strip referred to in the original approval (Planning Application Reference Number 04/01722/FUL) related to. That landscaped area only included the triangular parcel of land between the A92 and the drainage ditch which runs through the application site. It did not include the land on the western side of the ditch where the dwelling house was indicatively shown in both the last application and the current application. All decision making parties were of the view that the strip included the entire extent of the land between the A92 and the property known as Willowbank House. That was clearly incorrect. The reasons for the refusal of the previous application should be reviewed and the current application given positive consideration.
- The quality and maintenance of the landscaping undertaken on the site in response to conditions imposed on Planning Application Reference Number 04/01722/FUL has been quite poor. The

current proposal will ensure that additional landscaping is undertaken within a 10.5 metre strip next to the A92 which will create a setting not only for the dwelling house currently proposed but for the entire Tarriebank Gardens Development.

#### ***Countryside Housing – Supplementary Guidance***

4.30 The Council's Supplementary Guidance on '*Countryside Housing*' was approved by the Council's Planning Committee in October 2016. The main objectives of the Supplementary Guidance are to:

- Provide advice on the interpretation of relevant aspects of Policies TS2 and DS1 of the Angus Local Development Plan, and provide a consistent approach to decision-making;
- Guide new development to appropriate and sustainable locations, where impact on landscape quality is minimised;
- Ensure new development reflects traditional patterns of development in the locality; and
- Promote high quality development in the countryside that respects local character and rural heritage.

4.31 Section 3.4 of the Supplementary Guidance comments on '*Building Groups*' and '*Gap Sites*.' In relation to '*Building Groups*' it states the following:

*'A single new house may be permitted where development would round off an established group of 3 or more closely related residential buildings or buildings capable of conversion for residential use. This should be sited within the building group (i.e. generally located close to other buildings in the group) provided this does not detract from the overall sense of containment and cohesion of the group within its wider landscape setting. Development outwith the boundaries or features that define a group's sense of containment should not be considered as constituting development within or rounding off the building group. Proposals that have a significant detrimental impact on the character of the group, or its landscape setting should be resisted as failing to round off or consolidate the group. Definitions of "sense of containment" and "building group" are contained in the Glossary.'*

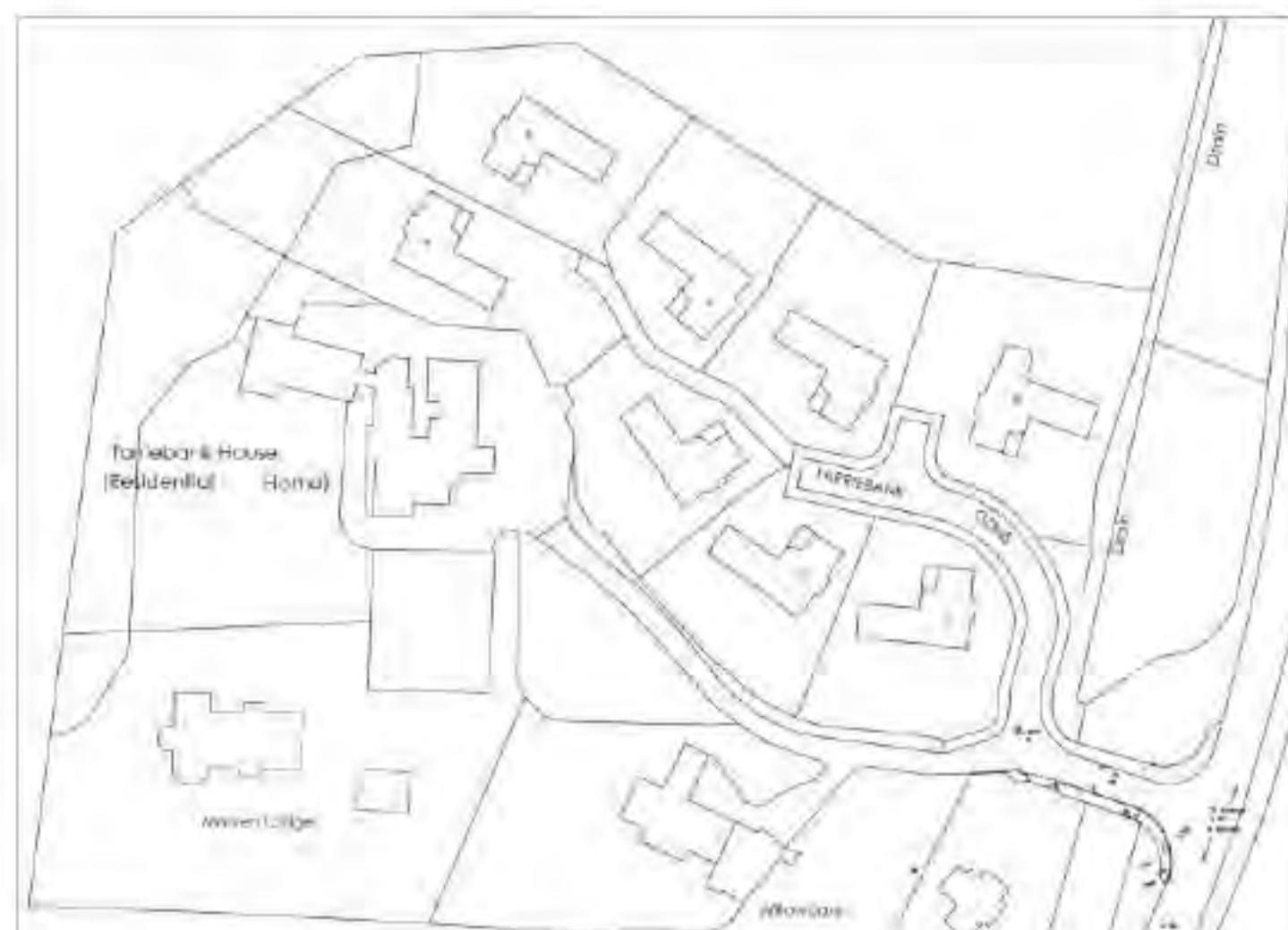
4.32 '*Building Group*' and '*Sense of Containment*' are defined as follows:

***'Building Group - A group of at least 3 closely related existing dwellings or buildings capable of conversion for residential use. The building group will require to have a sense of containment.'***

***'Sense of Containment - A sense of containment is contributed to by existing physical boundaries such as landform, buildings, roads, trees, watercourses, or long established means of enclosure such as stone walls. Fences will not normally be regarded as providing a suitable boundary for the purposes of this definition unless they can be demonstrated to define long established boundaries as evidenced by historic OS Maps. Any boundaries artificially created to provide a sense of containment will not be acceptable.'***

4.33 As noted previously there is an established group of eleven existing buildings consisting of ten dwelling houses and a care home at Tarriebank Gardens. The application site represents a logical addition to that established group made more so by the existence of permanent physical features on three of its four sides in the form of the A92, Tarriebank Gardens and the immediately adjoining property known as Willowbank House. The location plan on the following page showing the overall group with the proposed dwelling in place demonstrates conclusively and unequivocally

that the new house will round off the existing group, improve the entrance to the overall development and provide a sense of appropriate containment in the landscape.



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Location Plan 1:1250



*Location Plan demonstrates that proposed dwelling rounds off existing group through development of gap site*

- 4.34 Section 3.4 of the Supplementary Guidance states the following in relation to 'Gap Sites'

*'In Category 1 RSUs a gap site between the curtilage of two existing residential properties or the curtilage of 1 dwelling and a metaled road may be filled by a single dwelling house. A site will not constitute a gap site if it lies within the curtilage of an existing house, or on land that is not clearly defined as being outwith the curtilage of a house or houses. For the purposes of this definition, a house must as a minimum) be wind and watertight to be considered as a dwelling. Housing will not normally be permitted to fill a gap between a house and a non-residential property.'*

- 4.35 A 'Gap Site' is defined in the Glossary to the Supplementary Guidance as follows:

*'the space between the curtilages of two dwellings or between the curtilage of one dwelling and a metaled road – i.e. a stone surface with a hard, crushed rock or stone surface as a minimum. The site should have established boundaries on three sides.'*

- 4.36 As noted previously the application site benefits from clearly defined boundaries on three sides and as such forms a gap site between the A92 to the east; the Tarriebank Gardens access road to the north; and the timber fence boundary with Willowbank House to the west. Although the southern boundary of the site is undefined the boundaries that do exist provide a sense of enclosure and containment consistent with the principle of developing such sites as advocated in both Policy TC2 of the Local Development Plan and Supplementary Guidance.

- 4.37 Section 4 of the Supplementary Guidance on ‘*Design Considerations for New Houses in the Countryside*’ states the following:

*‘In general the design solution for new houses in the countryside should accord with the principles set out in Policies DS3 Design Quality and Placemaking and PV6 Development in the Landscape. Guidance on design of new development in rural locations has been incorporated into the Design Quality and Placemaking Supplementary Guidance.*

*The basic principles for the siting and design of new houses in the countryside are set out below. New housing development should:*

- *Reflect the traditional pattern of development in the area;*
- *Materials, form, scale and massing of new development should complement and not detract from existing traditional buildings in the area. Contemporary designs based on traditional characteristics will be generally encouraged. New housing based on suburban characteristics will not be supported;*
- *New development should seek to integrate with local landscape context and features and fit into the wider landscape setting not be imposed on it. Obtrusive development (i.e. on a ridgeline, artificially elevated ground or open settings) will not be supported;*
- *Landscaping and boundary treatment should be used to integrate new development with its setting. Proposals should be accompanied by a landscaping plan to demonstrate how the development will integrate into the local landscape setting.’*

- 4.38 As this is an application for Planning Permission in Principle it is not possible to respond in detail to all of the requirements outlined above. However, what is evident is the fact that this site represents an opportunity to infill a gap site and in the process round off an existing group of buildings on a site that has very clear and well defined physical boundaries on three sides. Those boundaries will assist with the integration of that house within the landscape and without causing adverse impact on or harm to it. As far as design considerations are concerned it would clearly be possible at the detailed stage to design a dwelling house which could fit with and complement the local landscape character. A sensitively designed dwelling house in combination with existing and additional landscaping would enhance views into and out of the Tarriebank Gardens development and result in very significant visual benefits.

- 4.39 Appendix 3 to the Supplementary Guidance sets out the Criteria that all countryside housing proposals are required to meet. Those criteria and our responses to them are outlined below:

- a *not create a gap or rounding off opportunity for additional greenfield development. The sub-division of existing residential curtilages to artificially create new build plots will not be supported;*

**Response** – As noted previously the application site is self-contained on three sides and as such constitutes a ‘gap site’ as defined in the Supplementary Guidance. The remaining area of ground to the south of the proposed plot measures 3,026 sq. metres. By exceeding the maximum 2000sq. metre site area threshold specified in (b) below for Category 1 RSUs, policy would not permit the erection of a dwelling house on these lands. We would further add that the erection of any additional housing on the lands to the south would necessitate the formation of a new access onto

the A92 which is unlikely to be considered acceptable. As a consequence of these considerations the approval of the current application would not set a precedent to support any further development on land to the south.

- b** *meet the following plot size requirements (does not apply to proposals for conversion of non-residential buildings):*

- *Category 1 RSUs – between 0.08ha/800m<sup>2</sup> and 0.2ha/2000m<sup>2</sup>*
- *Category 2 RSUs – between 0.06ha/600m<sup>2</sup> and 0.4ha/4000m<sup>2</sup>*

**Response** – The application site which measures 1112 sq. metres falls within the 800 – 2000 sq. metres threshold specified for Category 1 RSU's.

- c** *not extend ribbon development;*

**Response** – Ribbon development is defined in the Glossary to the Supplementary Guidance as '*a string of 3 or more houses along a metalled road – i.e. a road with a hard, crushed rock stone surface as a minimum.*' The dwelling house proposed is situated immediately adjacent to a single house within an overall group (including it) of eleven dwelling houses and one nursing home. As a result of these site characteristics the dwelling house as proposed cannot be construed as contributing to ribbon development.

- d** *not result in the coalescence of building groups or of a building group with a nearby settlement;*

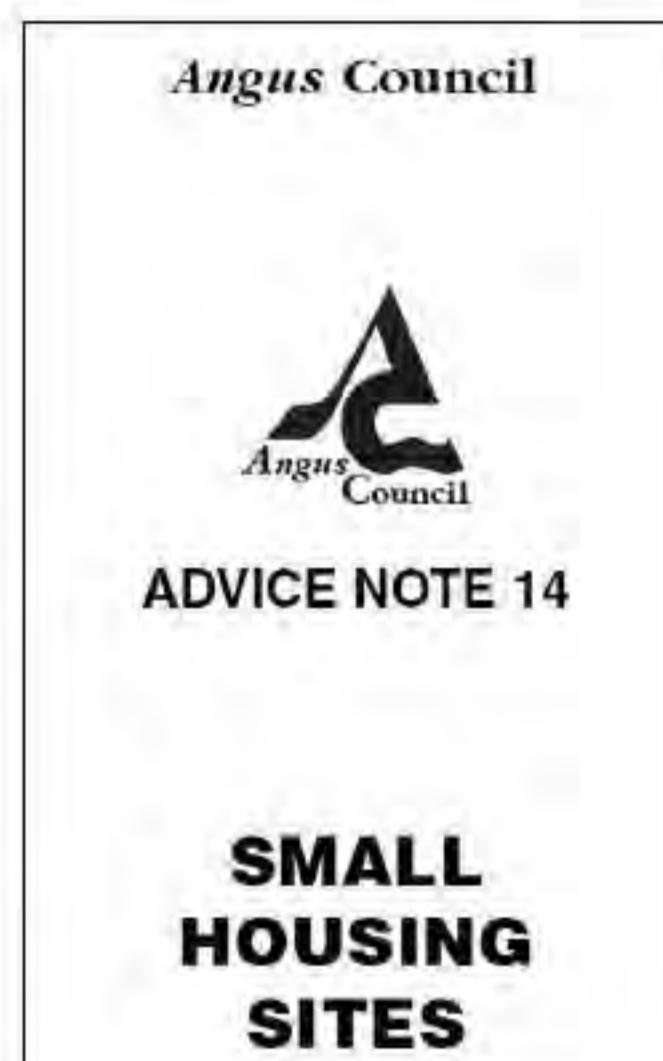
**Response** – The development of the application site for the dwelling house proposed will not result in the coalescence of the established building group with another building group or with a nearby settlement, which in this case would be Marywell.

- e** *contribute to the rural character of the surrounding area and not be urban in form and/or appearance. Materials and design should reflect and complement traditional properties in the locality. Examples of suburban design on nearby or adjacent houses will not be accepted as justification for additional suburban development;*

**Response** – Whilst this is an application for planning permission in principle it is unequivocally clear that the site can comfortably accommodate the dwelling house proposed. Detailed design would be a matter for consideration under an application for approval of matters specified in conditions in the event of planning permission in principle being granted. As noted previously the site is clearly capable of accommodating a dwelling which will not only compliment the wider development but improve the views into and out of it.

- f** *provide a good residential environment, including useable amenity space/private garden ground, and adequate space between dwellings whilst retaining the privacy of adjacent properties. Guidance on private amenity space and distance between dwellings is set out in the Design Quality and Placemaking Supplementary Guidance. In countryside areas application of this guidance will have regard to the nature of the location and adjoining properties. The extension of property curtilage in relation to proposals for renovation or conversion of existing buildings may be permitted in line with Angus Council's Advice Note 25 – Agricultural Land to Garden Ground.*

**Response** – The application site is clearly capable of delivering a high quality residential environment including usable private amenity space and sufficient distance between it and the neighbouring property so as to ensure that neither is compromised in any way as a result of privacy loss. The proposal also complies with the Council's Advice Note 14 on '*Small Housing Sites*' in terms of minimum standards to be achieved for private amenity space and distance between dwellings



- g** make provision for affordable housing in line with Policy TC3: Affordable Housing and the guidance set out in the Developer Contributions and Affordable Housing Supplementary Guidance;

**Response** – Given the scale of development proposed there is no requirement for the provision of affordable housing in association with it.

- h** where the proposed development will have a demonstrable cumulative impact on infrastructure and community facilities provision, an appropriate developer contribution will be sought. Guidance on the range of contributions that may be sought from residential development and the methodologies for calculating the contribution are set out in the Developer Contributions and Affordable Housing Supplementary Guidance.

**Response** – Whilst our client has no objection to the principle of making developer contributions, any such contributions sought should be directly related to the impacts arising from the development in accordance with the principles set out in Scottish Government Circular 3/2012 on '*Planning Obligations and Good Neighbour Agreements*'. We are unaware of any justification in seeking developer contributions in this particular instance.

- i** not adversely affect or be affected by farming or other rural business activities (subject to provision of a good residential environment may not apply to proposals for essential worker housing required for the management of land or other rural business);

**Response** – The proposed dwelling house will not have an adverse effect on any existing farming or rural based enterprise in the area.

- j      *not take access through a farm court; (subject to provision of a good residential environment may not apply to proposals for essential worker housing required for the management of land or other rural business);*

**Response** – Access to the development site is from an existing publicly adopted road. That access does not run through a farm court.

- k      *not require an access road of an urban scale or character. The standard of an access required to serve a development will give an indication of the acceptability of the scale of the development in a rural location, e.g. where the roads standards require a fully adoptable standard of road construction with street lighting and is urban in appearance it is likely that the development proposals will be too large. The standard of the existing access should be taken into account when assessing a development proposal. Improvements should only be required where these would be necessary to provide ease of vehicular access to the existing and proposed development, or for road safety purposes;*

**Response** – Access to the proposed dwelling house will be taken off the existing access road serving Tarriebank Gardens which is already adopted.

- 4.34 Having assessed the proposal against the terms of the development plan and all other material considerations we are firmly of the view that our client's application which seeks planning permission for the erection of a single dwelling house on this site should be granted planning permission in principle.

## 5. SUMMARY AND CONCLUSIONS

5.1 The following bullet points set out a summary of our client's planning application and the reasons supporting a positive recommendation:

- The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell, near Arbroath. The existing building group includes ten detached dwelling houses and Tarriebank House Care Home.
- The site, which measures c.1112 sq. metres is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.
- The application submitted seeks planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is suggested for retention along the boundary with the A92 with a vertically boarded timber fence and hedging on the inner (western edge) defining the boundary of its garden area. It is suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.
- Policy TC2 of the Angus Local Development Plan along with the Council's Supplementary Guidance on Countryside Housing supports the erection of a single new house in countryside locations in situations where it would round off an established building group of 3 or more existing dwellings or buildings capable of conversion to residential use. It also supports the erection of a dwelling house where it involves the development of a '*gap site*', which for the area in which the site is located, is defined as a site between the curtilage of two existing residential properties or the curtilage of one dwelling and a metalled road.
- The application site is of a '*gap*' nature having clearly defined boundaries on three of its four sides. It is bounded to the north by the access road to Tarriebank Gardens; to the east by the A92; and to the west by the timber fenced boundary with the neighbouring property, Willowbank House. The site also benefits from a very strong and coherent relationship with the established group of buildings at Tarriebank appearing as a logical addition to that and rounding the group off in a manner which will result in a significant improvement to its setting and improving views into and out of it.

- An application for planning permission in principle for the erection of a dwelling house on the site was previously refused by the Council's Planning Department and a request to review that decision dismissed by the Council's Development Management Review Committee (Reference Number 11/0115/PPPL). The three reasons for the refusal of that application erroneously referred to the fact that the dwelling house was proposed on an area of landscaping required to be provided as part of the original Tarriebank Gardens Development which was approved in August 2005 under Planning Application Reference Number 04/01722/FUL. An examination of the plans relating to that development have revealed that the dwelling house was proposed on an area of ground to the west of the landscaping strip rather than within the landscaping strip as claimed.
  - The quality and maintenance of the landscaping undertaken on the site in response to conditions imposed on Planning Application Reference Number 04/01722/FUL has been poor. The current proposal will ensure that additional landscaping is undertaken within a 10.5 metre strip next to the A92 which will create a setting not only for the dwelling house currently proposed but for the entire Tarriebank Gardens Development.
- 5.2 In light of the considerations outlined above it is respectfully requested that planning permission be granted for the erection of a single dwelling house on the site. We reserve the right to provide additional information in support of this application prior to its determination if considered necessary or justified.

Signed

Derek Scott

Date 27<sup>th</sup> July 2017

**From:**MacKenzieF  
**Sent:**28 Aug 2017 12:38:33 +0100  
**To:**'John Crawford'  
**Subject:**Planning Permission Application: 17/00647/PPPL

Good Afternoon Mr Crawford,

**Planning Permission Application: 17/00647/PPPL**

**Proposed Erection of Dwelling House In Principle**

**Land Adjacent To, Tarriebank Gardens, Tarriebank, Arbroath**

I write with reference to the above and would advise that I have now had the opportunity to visit the site and review the proposal.

I'm afraid I must advise that the application will be refused. As you are aware, there is a significant planning history at this site and 2011 Planning Permission in Principle application reference: 11/01115/PPPL for a similar proposal was refused by the Planning Service. The Service's decision was subsequently upheld at the appeal to the Development Standards Committee. Whilst the development plan framework has been updated since 2011, the consideration remains that the proposed development is inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that is required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal would extend a development form that was considered to be incongruous in the consideration of appeal P/PPA/120/270 into the landscape strip that has been established as long term mitigation in respect of existing development at Tarriebank Gardens. Therefore the application is contrary to the provisions of Polices DS1, DS3, DS4, TC2 and PV6 of the [Angus Local Development Plan](#) and the statutory [Countryside Housing Supplementary Guidance](#) and the application cannot be supported. I would invite you and your client to withdraw the application at this time. If the application is proceeded it will be refused.

I understand this will not be welcome information, however, I would be obliged if you could contact me to advise your intentions in relation to the matter within 5 days.

Kind Regards,

Fraser

**Fraser MacKenzie : Planning Officer (Development Standards) : Angus Council : Place : Planning :  
County Buildings : Market Street : Forfar : DD8 3LG : Telephone 01307 473351 : Direct Dial 3351**



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

Ref JDC/335/GC

31 August 2017

**For the Attention of Fraser McKenzie**

Dear Sir

**Re: Proposed Erection of Dwelling House (In Principle) on Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath (Your Reference 17/00647/PPPL)**

Further to your recent e-mailed correspondence with regards to the above, we now write to advise you that at this time after discussion with client, that we will not be withdrawing application as per your request but would invite you to give further consideration to the following points as highlighted in the supporting statement prepared by Derek Scott Planning.

- 1 In your department's consideration of planning application reference number 11/01115/PPPL and in the subsequent consideration of the review request by your development standards committee it was incorrectly assumed by both that the entire extent of the application site formed part of the landscaping strip associated with the original Tarriebank development. You appear to be making the same error again. We would like to point out that the dwelling house shown on the indicative layout submitted with the application is not located on the said landscaping strip and furthermore that the development as proposed will maintain a landscaping strip next to the main road. Your suggestion that the development proposed would "extend an urban development form in a countryside location into a landscape strip that is required in the interests of amenity as part of the planning permission that established Tarriebank Gardens" is therefore incorrect
  
- 2 the appeal to which you refer related to an application for the erection of three dwelling houses on a larger site than the site relating to the current proposal for one dwelling house and as such it is not of particular relevance to the current application. Whilst the reporter who determined that appeal may have described the original Tarriebank development as being an incongruous one, we assume having granted permission for it originally there is a variation in opinion.



**AC13**  
**JOHN D. CRAWFORD LTD**  
**ARCHITECTURAL SERVICES**

72 New Wynd | Montrose | Angus | DD10 8RF  
Tel | 01674 672064  
Email | [info@johndcrawford.co.uk](mailto:info@johndcrawford.co.uk)  
Web | [www.johndcrawford.co.uk](http://www.johndcrawford.co.uk)

We trust the above is to your understanding and therefore await your response but should you wish to discuss, then please call us.

We would thank you for your assistance/co-operation with this matter and can assure you of our best attention at all times.

Yours faithfully

John D Crawford

cc Mr A Burnett  
Mr D Scott

## **APPENDIX 2**

### **DEVELOPMENT MANAGEMENT REVIEW COMMITTEE**

#### **APPLICATION FOR REVIEW**

#### **ERECTION OF DWELLINGHOUSE AT LAND ADJACENT TO TARRIEBANK GARDENS, TARRIEBANK, ARBROATH**

**APPLICATION NO 17/00647/PPPL**

#### **APPLICANT'S SUBMISSION**

- ITEM 1** Notice of Review (including covering letter submitted by Derek Scott Planning)
- ITEM 2** Copy of Planning Application submitted to Angus Council
  - (a) Application Forms
  - (b) Application Drawings
  - (c) Supporting Statement
- ITEM 3** Copy Decision Notice
- ITEM 4** Copy Report of Handling
- ITEM 5** Copy Decision Notice and Approved Plans relating to 17/00215/PPPL
  - (a) Copy Local Review Body Decision Notice relating to 17/00215/PPPL
  - (b) Copy Approved Plans relating to 17/00215/PPPL

## NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

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

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>**

<b>1. Applicant's Details</b>		<b>2. Agent's Details (if any)</b>	
Title	Mr.	Ref No.	ep523 Tarriebank
Forename	Alistair	Forename	Derek
Surname	Burnett	Surname	Scott
Company Name	-----	Company Name	Derek Scott Planning
Building No./Name	-----	Building No./Name	Unit 9
Address Line 1	-----	Address Line 1	Dunfermline Business Centre
Address Line 2	-----	Address Line 2	Izatt Avenue
Town/City	-----	Town/City	Dunfermline
Postcode	-----	Postcode	KY11 3BZ
Telephone	-----	Telephone	01383 620 300
Mobile	-----	Mobile	07802 431970
Fax	-----	Fax	01383 844 999
Email	-----	Email	enquiries@derekscottplanning.com
<b>3. Application Details</b>			
Planning authority	Angus Council		
Planning authority's application reference number	17/00647/PPPL		
Site address	Land adjacent to Tarriebank Gardens Tarriebank Marywell Arbroath DD11 5RD		
Description of proposed development	Erection of Dwelling House (In Principle)		

Date of application

02.08.17

Date of decision (if any)

10.10.17

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

#### 4. Nature of Application

Application for planning permission (including householder application)

Application for planning permission in principle

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

Application for approval of matters specified in conditions

#### 5. Reasons for seeking review

Refusal of application by appointed officer

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

Conditions imposed on consent by appointed officer

#### 6. Review procedure

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

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

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

We reserve the right to respond to any submissions made in connection with this Review Request by the Appointed Planning Officer, Consultees or Third Parties.

#### 7. Site inspection

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

Can the site be viewed entirely from public land?

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

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

None.

## 8. Statement

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

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

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

Please refer to attached letter.

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

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

N/A

## **9. List of Documents and Evidence**

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

Please refer to attached letter.

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

## **10. Checklist**

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

Full completion of all parts of this form

Statement of your reasons for requesting a review

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

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

## **DECLARATION**

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

Signature:



Name: Derek Scott Planning

Date: 11/12/17

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



**By Post & Email**

Our Ref: ep523TarriebankReview/let001AC/DS

11<sup>th</sup> December 2017

Ms. Sarah Forsyth  
Angus Council  
Corporate Services  
Angus House  
Orchardbank  
FORFAR  
DD8 1AN

Dear Ms. Forsyth

**17/00647/PPPL – ERECTION OF DWELLING HOUSE ON LAND ADJACENT TO TARRIEBANK GARDENS, TARRIEBANK, ARBROATH DD11 5RD**

We write on behalf of our client, Mr. Alistair Burnett, to respectfully request that your Council's Development Management Review Body reviews the decision of the Appointed Officer, Mr. Fraser Mackenzie, to refuse the above-mentioned application for planning permission in principle for the erection of a dwelling house on land adjacent to Tarriebank Gardens, Tarriebank, Arbroath. A Notice of Review Form is attached as **Document 1**; a copy of the planning application and supporting statement is attached as **Document 2**; a copy of the decision notice is attached as **Document 3**; and a copy of Mr. Mackenzie's Report of Handling is attached as **Document 4**. All documents should be read with and form an integral part of this review request.

**Site Location and Description**

The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell. The existing building group includes ten detached dwellings and Tarriebank House Care Home.

The site, which measures c.1112 sq. metres is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.

**Description of Proposed Development**

The application submitted and refused by Mr. Mackenzie had sought planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is

suggested for retention along the boundary with the A92 with a vertically boarded timber fence on the inner (western edge) defining the boundary of the useable private garden space. It was suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.

The application was refused by the Council's Planning Department on 10<sup>th</sup> October 2017 for three reasons. Those reasons and our responses to them are outlined below:

- 1. *That the application is contrary to Policies TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality.***

**Response** – Whilst the Appointed Planning Officer acknowledges in his Report of Handling that the application property has the characteristics of a gap site and therefore acceptable in principle for the erection of a dwelling house it was considered by him that the dwelling house proposed would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality.

The Officer relies heavily in support of this reason for refusal on the planning history associated with the site referring in particular to a decision issued by a Reporter from the Scottish Government in 2009 under Planning Appeal Reference Number P/PPA/120/270 and to a decision issued by the Council's Development Management Review Committee in 2011.

Referring firstly to the decision issued by the Scottish Government Reporter it is important to draw attention to the fact that this said decision related to a proposal for three residential plots on a significantly larger site than is the subject of the current application. Whilst it is acknowledged that the Reporter commented that, '*I do not consider that the existence of Tarriebank Gardens establishes any precedent or justification for further housing in this rural location. To my mind Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside,*' it is quite wrong, in my opinion, to relate and to attempt to gain support for the refusal of the current application from those comments when the nature and scope of the applications are entirely different.

Whilst it is acknowledged that a similar proposal for the erection of a single dwelling house to that currently proposed was refused by the Appointed Officer under Planning Application Reference Number 11/01115/PPPL in 2011 and a subsequent Review Request dismissed by the Council's Development Management Review Committee that decision was made by the said Committee when under the impression, having been erroneously advised by the Planning Officer at the time, that the dwelling house proposed was within a landscaping strip that was required to be provided under the terms of an earlier grant of planning permission. It has since been proven that this is not the case. The three reasons for the refusal of the earlier application (see below) all erroneously referred to that landscaping strip.

- 1. *The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the***

*quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road;*

2. *The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference P/PPA/120/270 into the landscape strip that has been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion e) of Schedule 2 in the Angus Local Plan Review and consequently does not conform to Policy SC6 in the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria;*
3. *The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue of its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy S1 in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.*

Once again I consider it to be quite wrong to attempt to gain support to refuse the current application from an earlier decision made by the Review Committee in the erroneous circumstances just described.

In the context described above the first reason for the refusal of the current application now claims that the proposal would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality. As worded it appears that the Planning Officer is of the view that the existing development comprising Tarriebank Gardens is an inappropriate form of urban development. Whilst that may be the Planning Officer's personal opinion, influenced to a degree by the comments made by the Scottish Government Reporter in the 2009 appeal decision, there is no escaping the fact that the development at Tarriebank Gardens was previously approved by the Council and therefore viewed at the time as an appropriate form of development and entirely appropriate within the rural context in which it was situated.

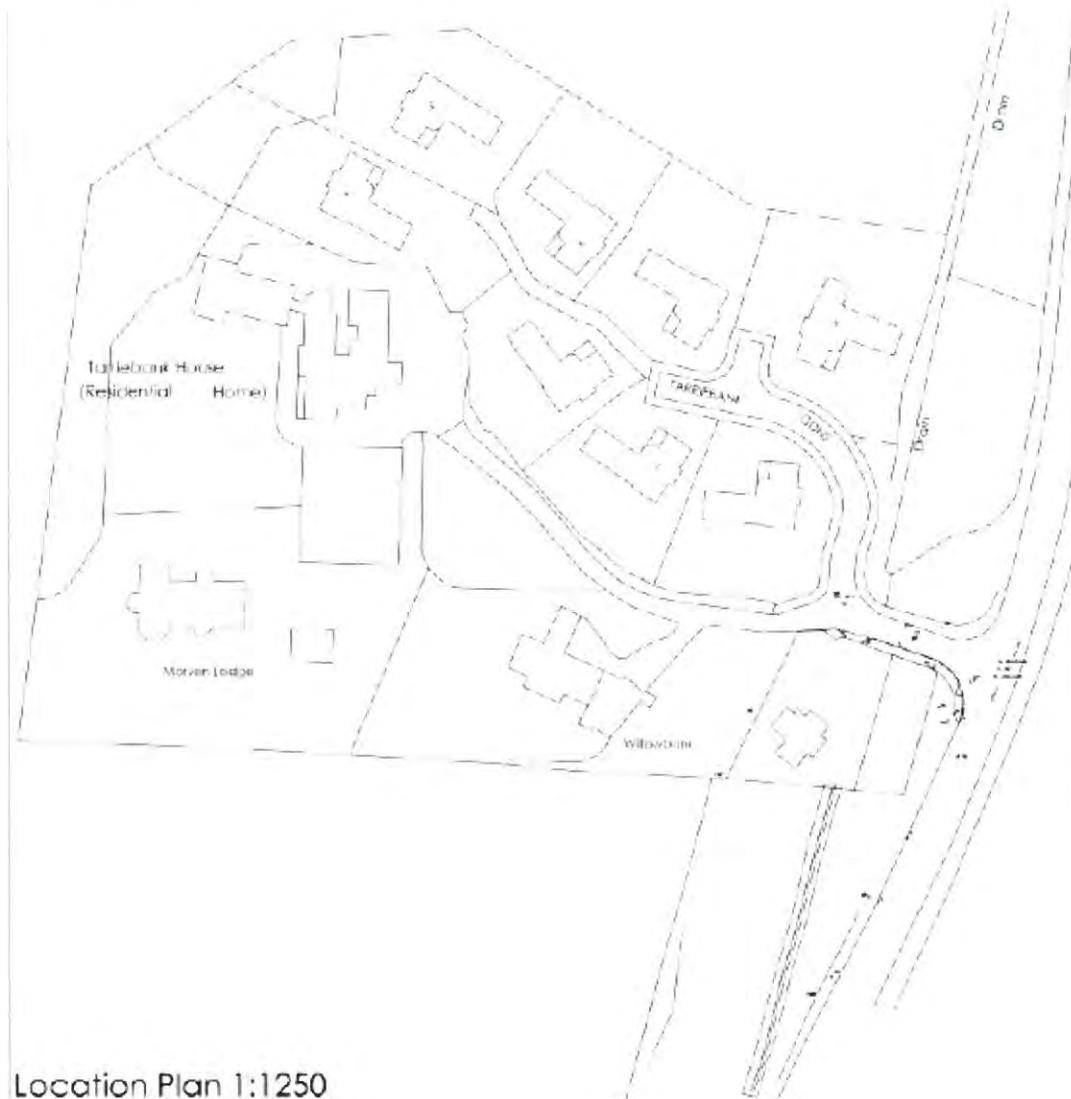
The Planning Officer further claims that the dwelling house proposed would detract from the amenity of the rural area and would not maintain or improve environmental quality. In support of this position he claims in the Report of Handling on the application that the existing building group has very clearly defined limits; that the dwelling proposed would extend the building group in an easterly direction rather than round off the existing building group; and that the approval of the application could lead to further pressure for similar development on land to the north of the access road.

Whilst I respect the Planning Officers views on the merits of the site I fundamentally disagree with them for the following reasons:

- The application submitted seeks permission for the erection of a single dwelling house on a gap site clearly defined to the north by the existing access road, to the south by land in the ownership of our client and capable of being landscaped/planted; to the west by an existing residential property (Willowbank) and to the east by a significant landscaped belt

of trees implemented as part of an earlier consent and capable of further strengthening should it be considered required.

The diagram below showing a dwelling house on the site applied for appears as an entirely appropriate addition to the existing group of buildings. In my opinion the building group is defined by the limits of the landscaped edge next to the A92. The application site therefore represents not only an appropriate and very obvious gap site but also an entirely appropriate means by which to round off the building group in a manner appropriate to its rural context.



Location Plan 1:1250

- As far creating a precedent for similar development on the northern side of the access road is concerned we would point out that all of the land on the northern site is contained within the landscaping strip required in association with the earlier development and therefore would not be appropriate for development. As noted previously the house proposed in the current application is located on a parcel of land between the landscaping

strip and the existing group of houses. A precedent of the nature described by the Planning Officer could not therefore be created.

In further support of our client's application/review request we would draw attention to a recent decision issued by the Council's Local Review Body which granted planning permission (Planning Application Reference Number 17/00215/PPPL) for the erection of a dwelling house on a site to the west of Bella's Cottage, Logie Road, Montrose. A copy of the decision notice and approved plans relating to that are attached as **Document 5**. In my opinion the current application site at Tarriebank is just as appropriate, if in fact not more appropriate than the site referred to.

**2. *That the application is contrary to Policy PV15 of the Angus Local Development Plan 2016 as the proposal involves provision of a private waste water treatment system within an area served by the public sewer.***

Whilst it is acknowledged that the application forms submitted with the application identified, in error, the installation of a private waste water treatment plant, our client has no difficulty with discharging to the public sewer.

**3. *That the application is contrary to Policy DS1 of the Angus Local Development Plan 2016 as the proposal is not in accordance with relevant policies of that Plan, namely Policies TC2, DS3, DS4 and PV15***

Our comments in response to the first and second reasons for refusal are equally applicable to the third reason of refusal.

#### **Other Considerations**

It has been noted that two neighbouring property owners/occupiers have objected to the application. Those objections considered to be material in the planning context and our responses to them are outlined below:

*'The proposal does not comply with the development plan or national guidance.'*

**Response** – For the reasons mentioned in our response to the individual reasons of refusal we disagree.

*'A reduction in the amenity value of the surrounding area and inadequacy of existing planting to mitigate Tarriebank Gardens.'*

**Response** – The dwelling house is not proposed on the strategic landscaping strip associated with the original Tarriebank Gardens Development

*'Impact on residential amenity of neighbouring property.'*

**Response** – The neighbouring house to the west (Willowbank) which is set within a large garden is located in excess of 20 metres from the boundary of the application site. There is no reason to consider that a suitably designed house could not be provided on the site to ensure that this neighbouring property's amenity is not adversely affected in any way.

*'The water supply would be pushed beyond capacity and Scottish Water will have to upgrade facilities.'*

**Response** – We are unaware of any water supply difficulties in the area which would prevent the development of the site for the purposes proposed. Scottish Water have raised no such concerns.

*'Impact on traffic safety and exacerbating hazardous access onto unrestricted A92 Road.'*

**Response** – The traffic movements associated with one additional house are minimal and quite insignificant in nature. The Council's Roads Department have not objected to the application.

*'Impact from road noise on A92'*

**Response** – The distance between the proposed dwelling house and road combined with the levels of traffic using the A92 should ensure that satisfactory amenity levels can be provided within the proposed dwelling. There are many other houses significantly closer to the A92 than that proposed.

Having considered the reasons for the refusal of the application in the context of the development plan and all other material considerations we are firmly and unequivocally of the view that this is an appropriate site for the development of a new dwelling house within an established gap site and in the process will round off the existing building group. Whilst it is acknowledged that a similar proposal was refused previously and a request to review that decision dismissed by the Development Management Review Body that decision was made erroneously and based on a misunderstanding that the dwelling was proposed on a landscaping strip required in association with the earlier and wider development. This is clearly not the case and as consequence the application merits thorough reassessment.

The Scottish Government places great emphasis in Scottish Planning Policy on the provision of appropriate opportunities for the development of rural housing in the Scottish Countryside. Whilst it is acknowledged that there is an element of subjectivity in the decision making process when it comes to assessing the merits of an individual site against the Council's Housing in the Countryside Policy there should always be an overlying presumption in favour of appropriate development. The erection of a dwelling house on this site is entirely appropriate and as such it is respectfully requested that it be approved.

We reserve the right to expand on the contents of this supporting letter or to respond to any further submissions made by the Council's Planning Department, Consultees or third parties prior to its determination by the Development Management Review Body.

Please acknowledge receipt and registration of this request at your earliest convenience. Thanking you in anticipation of your assistance.

Yours sincerely

Derek Scott

enc

# List of Documents

<b>Document 1 –</b>	Notice of Review Form
<b>Document 2 –</b>	Copy of Planning Application submitted to Angus Council
Document 2a –	Application Forms
Document 2b –	Application Drawings
Document 2c –	Supporting Statement
<b>Document 3 –</b>	Copy of Decision Notice
<b>Document 4 –</b>	Copy of Report of Handling
<b>Document 5 –</b>	Copy of Decision Notice and Approved Plans relating to 17/00215/PPPL
Document 5a –	Copy of Local Review Body Decision relating to 17/00215/PPPL
Document 5b –	Copy of approved plans relating to 17/00215/PPPL



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100061620-001

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)

Proposed Erection of Dwelling House In Principle

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:	John D. Crawford Ltd		
Ref. Number:	JDC/335	You must enter a Building Name or Number, or both: *	
First Name: *	John	Building Name:	
Last Name: *	Crawford	Building Number:	72
Telephone Number: *	01674672064	Address 1 (Street): *	New Wynd
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Montrose
Fax Number:		Country: *	Scotland
		Postcode: *	DD10 8RF
Email Address: *	admin@johndcrawford.co.uk		

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: *	Alistair	Building Number:	22
Last Name: *	Burnett	Address 1 (Street): *	Agnew Avenue
Company/Organisation:		Address 2:	
Telephone Number: *	[REDACTED]	Town/City: *	Coatbridge
Extension Number:		Country: *	Scotland
Mobile Number:	[REDACTED]	Postcode: *	ML5 3QD
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:	Angus Council
Full postal address of the site (including postcode where available):	
Address 1:	
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	
Post Code:	

Please identify/describe the location of the site or sites

Northing	744884	Easting	365200
----------	--------	---------	--------

## Pre-Application Discussion

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

Yes  No

## Site Area

Please state the site area:	1112.00
Please state the measurement type used:	<input type="checkbox"/> Hectares (ha) <input checked="" type="checkbox"/> Square Metres (sq.m)

## Existing Use

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

Vacant Land
-------------

## 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.

## 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

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? \*

- New/Altered septic tank.
- Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
- Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? \*

- Discharge to land via soakaway.
- Discharge to watercourse(s) (including partial soakaway).
- Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: \*

See Plans

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

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.

## **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: John Crawford

On behalf of: Mr Alistair Burnett

Date: 02/08/2017

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 type="checkbox"/> Yes <input checked="" 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)

Supporting Statement

## 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: Mr John Crawford

Declaration Date: 02/08/2017

## Payment Details

Online payment: 632695

Payment date: 02/08/2017 11:51:25

Created: 02/08/2017 11:51

## ITEM 2(b)

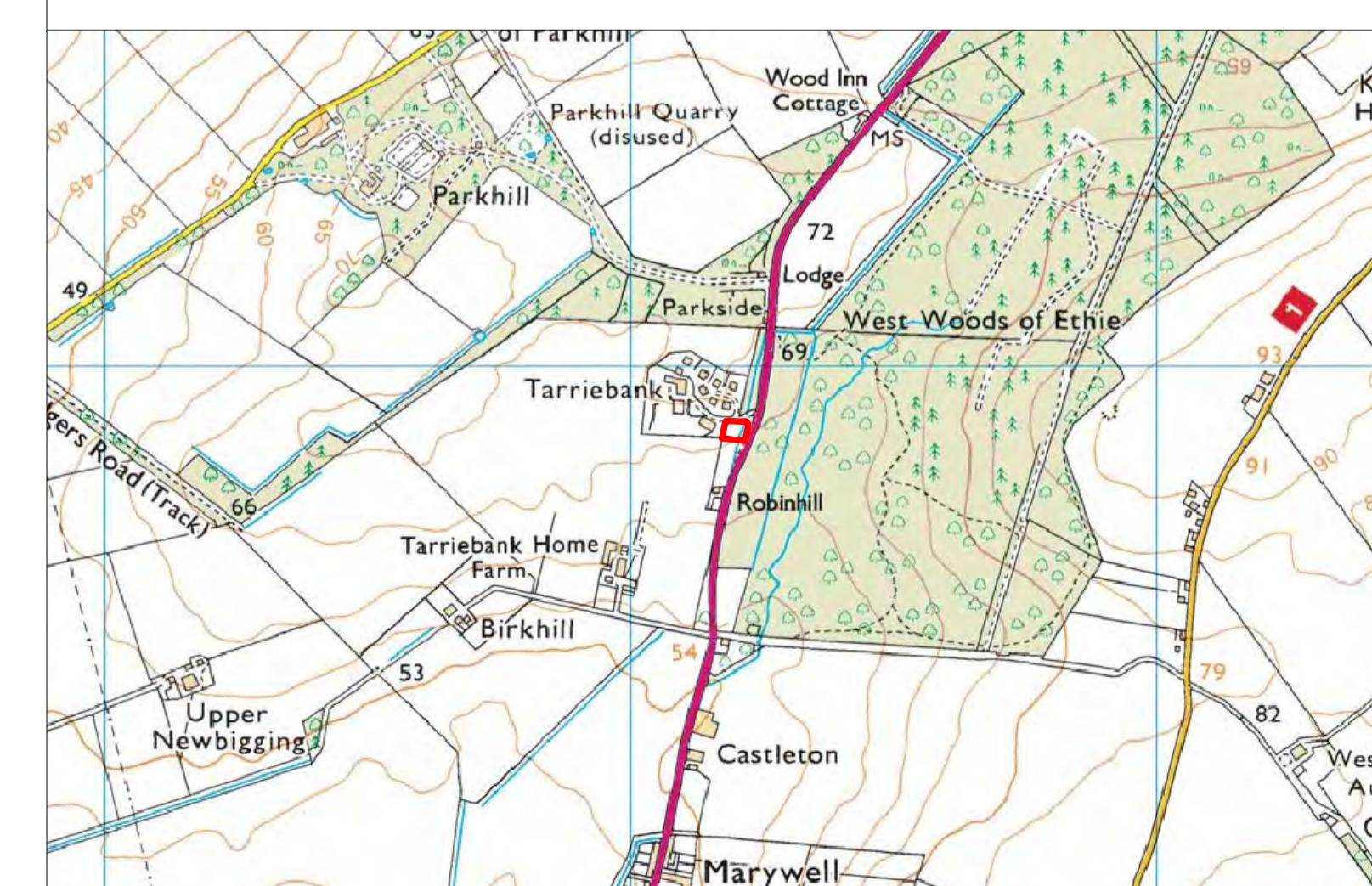


Indicative Location Plan 1:500



Indicative Site Layout 1:100

Total Area:- 1112sqm or thereby



Location Plan (1:50,000)

Location Plan 1:1250

REVISION	DATE	DESCRIPTION
CLIENT   Mr A Burnett		
PROJECT   Proposed Dwelling in Principle at Land south of Tarriebank Gardens, Arbroath.		
TITLE   Plans		
SCALE	DATE	DRAWING NUMBER DRAWN BY
as per dwg	31.07.17	JDC/335/001 DP
This drawing is issued for the purpose of the status indicated below only		
<input type="checkbox"/> Sketch	<input type="checkbox"/> Outline Planning	
<input type="checkbox"/> Planning	<input type="checkbox"/> Building Warrant	
<input type="checkbox"/> Tender Issue	<input checked="" type="checkbox"/> Construction Issue	

# **SUPPORTING STATEMENT**

**ERECTION OF DWELLING HOUSE**

at

**Tarriebank Gardens  
Marywell  
Arbroath  
DD11 5RD**

Prepared by

**Derek Scott Planning  
Planning and Development Consultants**



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On behalf of

**Mr. Alistair Burnett**

# Executive Summary

## ERECTION OF DWELLING HOUSE AT TARRIEBANK GARDENS, MARYWELL, ARBROATH DD11 5RD

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- The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell, near Arbroath. The existing building group includes ten detached dwelling houses and Tarriebank House Care Home.
- The site, which measures c.1112 sq. metres, is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.
- The application submitted seeks planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is suggested for retention along the boundary with the A92 with a vertically boarded timber fence and hedging on the inner (western edge) defining the boundary of its garden area. It is suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.
- Policy TC2 of the Angus Local Development Plan along with the Council's Supplementary Guidance on Countryside Housing supports the erection of a single new house in countryside locations in situations where it would round off an established building group of 3 or more existing dwellings or buildings capable of conversion to residential use. It also supports the erection of a dwelling house where it involves the development of a 'gap site,' which for the area in which the site is located, is defined as a site between the curtilage of two existing residential properties or the curtilage of one dwelling and a metalled road.
- The application site is of a 'gap' nature having clearly defined boundaries on three of its four sides. It is bounded to the north by the access road into Tarriebank Gardens; to the east by the A92; and to the west by the timber fenced boundary with the neighbouring property, Willowbank House. The site also benefits from a very strong and coherent relationship with the established group of buildings at Tarriebank appearing as a logical addition to that and rounding the group off in a manner which will result in a significant improvement to its setting and improving views into and out of it.

- An application for planning permission in principle for the erection of a dwelling house on the site was previously refused by the Council's Planning Department and a request to review that decision dismissed by the Council's Development Management Review Committee (Reference Number 11/0115/PPPL). The three reasons for the refusal of that application erroneously referred to the fact that the dwelling house was proposed on an area of landscaping required to be provided as part of the original Tarriebank Gardens Development which was approved in August 2005 under Planning Application Reference Number 04/01722/FUL. An examination of the plans relating to that development have revealed that the dwelling house was proposed on an area of ground to the west of the landscaping strip rather than within the landscaping strip as claimed.
- The quality and maintenance of the landscaping undertaken on the site in response to conditions imposed on Planning Application Reference Number 04/01722/FUL has been generally poor. The current proposal will ensure that additional landscaping is undertaken within a 10.5 metre strip next to the A92 which will create a setting not only for the dwelling house currently proposed but for the entire Tarriebank Gardens Development.
- Based on our consideration of the development plan and all other material considerations it is our considered opinion that permission should be granted for the dwelling house as applied for.

# **SUPPORTING STATEMENT**

**ERCTION OF DWELLING HOUSE AT TARRIEBANK GARDENS, MARYWELL, ARBROATH  
DD11 5RD**

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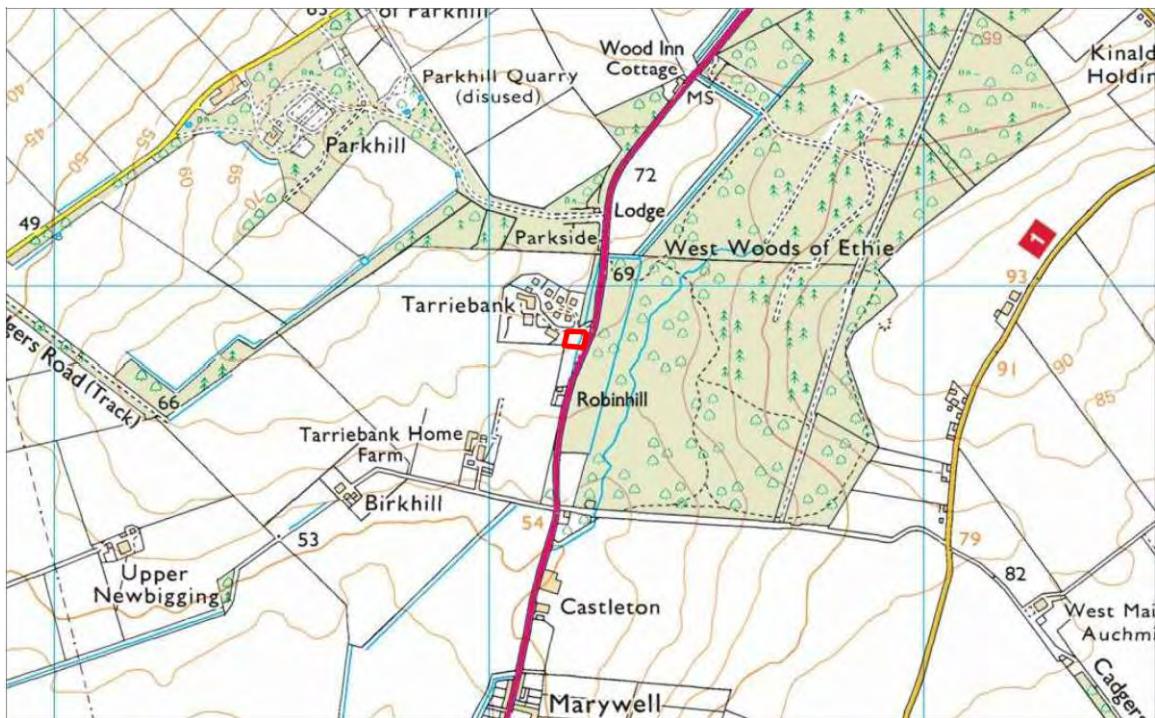
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# SUPPORTING STATEMENT

## ERECTION OF DWELLING HOUSE AT TARRIEBANK GARDENS, MARYWELL, ARBROATH DD11 5RD

### 1. INTRODUCTION

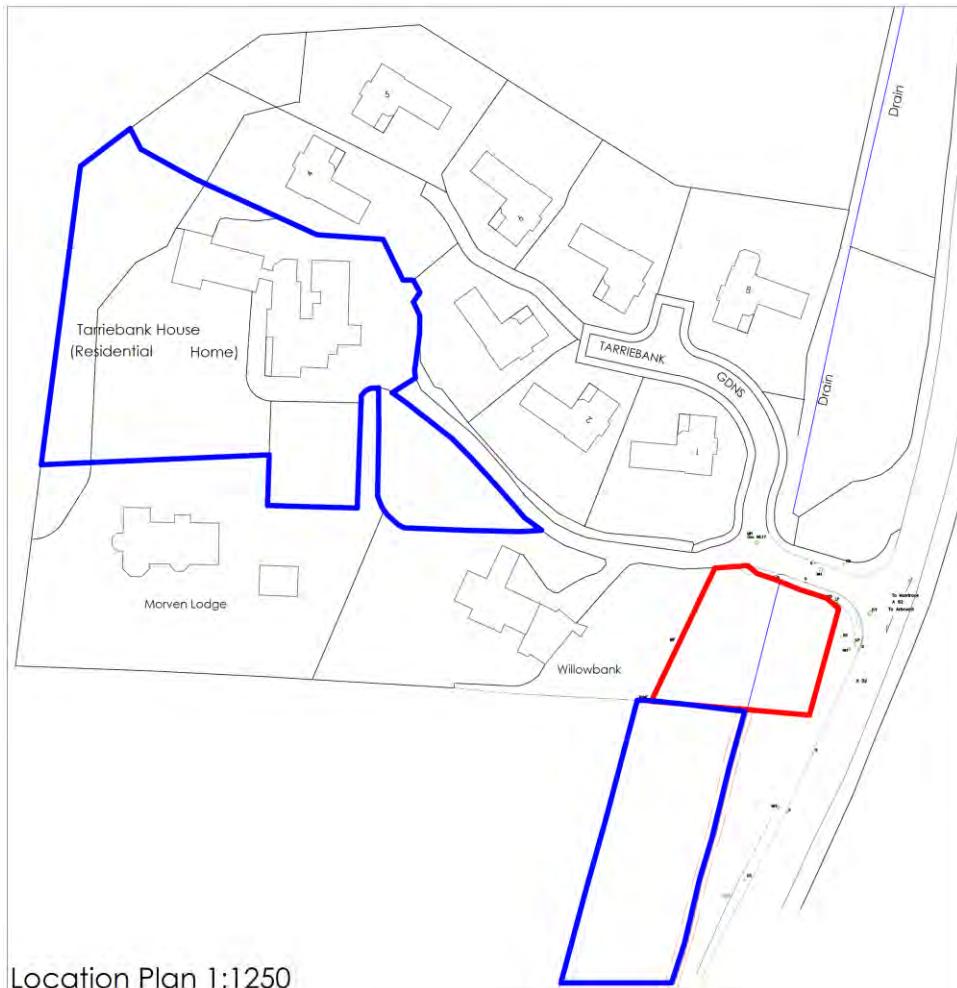
- 1.1 This statement has been prepared by Derek Scott Planning, Chartered Town Planning and Development Consultants on behalf of our client, Mr. Alistair Burnett. It is in support of an application for the erection of a dwelling house at Tarriebank Gardens, Marywell, Arbroath, DD11 5RD.



*Location Plan*

## **2. LOCATION AND DESCRIPTION OF SITE**

- 2.1 The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell. The existing building group includes ten detached dwelling houses and Tarriebank House Care Home.
- 2.2 The site, which measures c.1112 sq. metres is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.



*Location Plan (Site Outlined in Red)*



*Tarriebank Gardens*



*View Looking south towards site from Tarriebank Gardens*



*Looking south towards application site from A92*



*Willowbank House*



*Site cleared of scrub*

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1 The application submitted seeks planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is suggested for retention along the boundary with the A92 with a vertically boarded timber fence on the inner (western edge) defining the boundary of the useable private garden space. It is suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.



### ***Indicative Site Layout***

## 4. PLANNING POLICY

4.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that:

*'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.'*

4.2 In the context of the above it is worth making reference to the House of Lord's Judgement on the case of the City of Edinburgh Council v the Secretary of State for Scotland 1998 SLT120. It sets out the following approach to deciding an application under the Planning Acts:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;
- identify and consider relevant material considerations, for and against the proposal; and
- assess whether these considerations warrant a departure from the development plan.

4.3 The relevant development plan for the area comprises the Strategic Development Plan for Dundee, Angus, Perth and North Fife (Tay Plan) and the adopted Angus Local Development Plan. Other key material considerations in the determination of the application include Scottish Planning Policy; Planning History; Tay Plan – The Proposed Strategic Development Plan 2015; and the Council's Supplementary Guidance on Countryside Housing.

### Strategic Development Plan for Dundee, Angus, Perth and North Fife (TayPlan)

4.4 The Strategic Development Plan for Dundee, Angus, Perth and North Fife (Tay Plan) was approved by Scottish Ministers in June 2012 and sets out proposals for the development of the region in the period between 2012 and 2032. This plan provides the strategic framework for the determination of planning applications and the preparation of local plans. However it contains no specific policies or proposals of direct relevance to either the site or the proposed development and as such merits no further comment in the context of the application proposals.



- Angus Local Development Plan 2016**
- 4.5 The Angus Local Development Plan was adopted by Angus Council in September 2016. The application site lies within a ‘*Countryside Housing Category 1 Area.*’ Policy TC2 on ‘*Residential Development*’ states the following:

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

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

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

- *is not allocated or protected for another use;*
- *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:*

- *retention, renovation or acceptable replacement of existing houses;*
- *conversion of non-residential buildings;*
- *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;*
- *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*
- *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:*

- *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.*
- *the restoration or replacement of traditional buildings.*
- *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.'*

4.6 Our client's application is considered to be supported by and in compliance with the terms of Policy TC2 as it has a strong visual and coherent relationship with the established group of buildings at Tarriebank Gardens. It also has the characteristics of a gap site situated as it is between two metalled roads (the A92 and Tarriebank Gardens) and the neighbouring property, Willowbank House.

4.7 Other policies within the Plan which are of relevance to the application under consideration include the following:

Policy DS1 – Development Boundaries and Priorities

Policy DS3 – Design Quality & Place making

Policy DS4 – Amenity

Policy PV6 – Development in the Landscape

4.8 Policy DS1 on '*Development Boundaries and Priorities*' states the following:

*'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 green field 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

- 4.9 The application proposals involve the development of a gap site located between an established group of buildings (ten dwelling houses and a care home) and two metalled roads (the A92 and Tarriebank Gardens). It will appear as a logical addition to that group and contribute to rather than detract from the character of the area. As the proposal complies with Policy TC2 it follows that it also complies with Policy DS1.

- 4.10 Policy DS3 on '*Design Quality and Place Making*' states the following:

*'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:*

- *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.
- *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.
- *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 are set out in 'Designing Street's are addressed.
- *Adaptable* – Where development is designed to support a mix of compatible uses and accommodating changing needs.
- *Resource Efficient*: Where development makes good use of existing resources and is sited and designed to minimize environmental impacts and maximize 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.'*

- 4.11 Whilst many of the criteria mentioned in Policy DS3 above relate to larger scale developments than that proposed; and to urban rather than rural locations, it is evidently clear that a dwelling house can be comfortably accommodated on this site appearing as a logical addition to the existing building group and being contained within the strong boundaries established by the A92, Tarriebank Gardens and the neighbouring property to the west. An appropriately designed house in this location will contribute positively to the character and appearance of the area.

4.12 Policy DS4 on '*Amenity*' states the following:

*'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.'*

4.13 A dwelling house is clearly capable of being accommodated on this site and can be provided with acceptable levels of amenity. Similarly the erection of a house on the site will not result in adverse impacts on amenity levels at the nearest existing residential property (Willowbank House).

4.14 Policy DV6 on '*Development in the Landscape*' states the following:

*'Angus Council will seek to protect and enhance the quality of the landscape in Angus, its diversity (including coastal, agricultural lowlands, the foothills and mountains), its distinctive local characteristics, and its important views and landmarks.*

*Capacity to accept new development will be considered within the context of the Tayside Landscape Character Assessment, relevant landscape capacity studies, any formal designations and special landscape areas to be identified within Angus. Within the areas shown on the proposals map as being part of 'wild land', as identified in maps published by Scottish Natural Heritage in 2014, development proposals will be considered in the context of Scottish Planning Policy's provision in relation to safeguarding the character of wild land.*

*Development which has an adverse effect on landscape will only be permitted where:*

- *the site selected is capable of accommodating the proposed development;*
- *the siting and design integrate with the landscape context and minimize adverse impacts on the local landscape;*
- *potential cumulative effects with any other relevant proposal are considered to be acceptable; and*
- *mitigation measures and/or reinstatement are proposed where appropriate.*

*Landscape impact of specific types of development is addressed in more detail in other policies in this plan and work involving development which is required for the maintenance of strategic transport and communications infrastructure should avoid, minimize or mitigate any adverse impact on the landscape.*

*Further information on development in the landscape, including identification of special landscape and consideration areas in Angus will be set out in a Planning Advice Note.'*

- 4.15 The application site benefits from established boundaries on three of its four sides (the A92, Tarriebank Gardens and Willowbank House). The addition of further landscaping, as suggested, will ensure that any dwelling house proposed will integrate with the landscape and not result in an adverse effect on it, thus complying with the requirements of Policy PV6.
- 4.16 In light of the considerations outlined above we are very firmly of the opinion that the proposal is entirely compliant with the terms of the development plan and therefore meets the requirements of the first part of Section 25 in the Planning Act.

#### **Other material considerations**

- 4.17 There are a number of other material considerations which must be addressed in the consideration of this Planning Application including Scottish Planning Policy; Tay Plan – The Proposed Strategic Development Plan 2015; Planning History; and the Council's Supplementary Guidance on 'Countryside Housing.'

#### ***Scottish Planning Policy***

- 4.18 Scottish Planning Policy was published by the Scottish Government in June 2014 with its purpose stated as being '*to set out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land.*' Paragraph 75 of SPP advises that the Planning System should:
- *in all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces;*
  - *encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and*
  - *support an integrated approach to coastal planning.*'
- 4.19 Paragraph 81 of the SPP states the following:

*'In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:*

- *guide most new development to locations within or adjacent to settlements; and*
  - *set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.*
- 4.20 Paragraph 83 of the SPP states the following:
- 'In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:*
- *encourage sustainable development that will provide employment;*
  - *support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;*
  - *include provision for small-scale housing ( including clusters and groups; extensions to existing clusters and groups; replacement housing; plots for self-build; holiday homes; new build or conversion linked to rural business) and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;*
  - *where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies;*
  - *not impose occupancy restrictions on housing.'*
- 4.21 It is evidently clear from the above extracts that there is a strong level of support for appropriate forms of development in rural areas advocated in Scottish Planning Policy. The dwelling house proposed by our client, which, as we have demonstrated previously, is supported by the terms of the Angus Local Development Plan, is clearly considered appropriate in the context described.

- Tay Plan – The Proposed Strategic Development Plan**
- 4.22 The Proposed Strategic Development Plan for Dundee, Angus, Perth and North Fife (Tay Plan) was published in May 2015 and submitted to Scottish Ministers in June 2016. It sets out proposals for the development of the region in the period between 2016 and 2036. The Report into the examination of the plan was submitted to Scottish Ministers in March 2017 who will approve it with or without modifications. This plan, when approved, will provide the strategic framework for the determination of planning applications and the preparation of local plans. However it contains no specific policies or proposals of direct relevance to either the site or the proposed development and as such merits no further comment in the context of the application proposals.



### **Planning History**

- 4.23 There is a long and somewhat complicated planning history associated with the properties at Tarriebank Gardens. Outline planning permission was originally granted for the erection of eight dwelling houses within the curtilage of Tarriebank House on 20<sup>th</sup> October 2003 under Planning Application Reference Number 03/00825/OUT. A subsequent detailed application for the erection of eight dwelling houses was granted planning permission on 26<sup>th</sup> August 2005 under Planning Application Reference Number 04/01722/FUL. The red line boundary relating to that application (04/01722/FUL) incorporated the lands on the eastern side of the drainage ditch within the current application site but did not include the lands on its western side.
- 4.24 The permission granted under Planning Application Reference Number 04/01722/FUL contained a condition which required the submission, approval and subsequent implementation of a landscaping scheme for the overall site which included those triangular shaped lands to the south of the access road to Tarriebank Gardens and on the eastern side of the drainage ditch that runs through the application site. That landscaping scheme which implemented has not established itself particularly well.

### **Planning Application Reference Number 08/01409/OUT**

- 4.25 An application for outline planning permission for the erection of three dwelling houses on the land to the south of the access road, which the current application site lies within, was refused by the Council on 12<sup>th</sup> March 2009 for the following reasons:

- 1 *That the application is contrary to Policy SC6 of the adopted Angus Local Plan Review (2009) as the proposal is not for a single house to round off or consolidate a building group (criterion a), is not for a single house on a gap site (criterion b), is not a redundant rural brownfield site (criterion c) and is not located within a Category 2 Rural Settlement Unit (criterion d).*
  - 2 *That the application is contrary to criterion (a) and (b) of Schedule 2: Countryside Housing Criteria of the adopted Angus Local Plan Review (2009) as the site is not self contained and is larger than 2000 square metres.*
  - 3 *That the development proposed is contrary to Policy S1 of the adopted Angus Local Plan Review (2009) as a result of the failure of the proposal to satisfy the policy test of Policy SC6.*
- 4.26 A subsequent appeal against that refusal was dismissed by a Reporter from the Directorate for Planning and Environmental Appeals in the Scottish Government (Reference Number P/PPA/120/270). The appointed Reporter considered the eight dwelling houses granted permission under Planning Application Reference Number 04/01722/FUL with a number of subsequent amendments and subsequently developed appeared as a somewhat incongruous suburban development in the countryside. He agreed with the Council's decision and dismissed the appeal for, in summary, the following concerns:
- (i) The proposal would constitute a prominent extension of development southwards parallel to the A92 road to the east;
  - (ii) The site was neither a gap/infill opportunity or brownfield in nature; and
  - (iii) The proposal would effectively constitute ribbon development alongside the A92.



**2008 application sought permission for 3 houses on significantly larger site**

- 4.27 The current proposal is significantly different to 2008 proposal as it seeks planning permission in principle for a single dwelling house on a significantly smaller and definite gap site with plot boundaries aligning with the north and south boundaries of the adjacent house to the west (Willowbank House).

- 4.28 **Planning Application Reference Number 11/01115/PPPL**  
An application for the erection of a dwelling house on the current application site (albeit with slightly different boundaries), was refused by the Council under delegated powers on 12<sup>th</sup> March 2009 (Planning Application Reference Number 11/01115/PPL). That application which was accompanied by an indicative layout identified the erection of a dwelling house on the western side of the ditch running through the site. A subsequent request to the Council's Local Review Body upheld the decision taken by the Council's Head of Planning and Transport on 06<sup>th</sup> June 2012. The reasons for that refusal were as follows:

- 1. The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road.*
- 2. The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference number P/PPA/120/270 into the landscape strip that has*

*been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion (e) of Schedule 2 in the Angus Local Plan Review and consequently does not confirm to Policy SC6 of the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria.*

3. *The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue of its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy S1 in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.*



*Scheme proposed under Planning Application Reference Number 11/01115/PPPL (Indicative)*

- Analysis of the Reporter's decision letter, the reasons for refusal referred to above and the decision notice issued by the Local Review Body reveals that all parties (the Reporter, the Planning Officer and the Development Management Review Committee) misinterpreted and misunderstood the area to which the landscaping strip referred to in the original approval (Planning Application Reference Number 04/01722/FUL) related to. That landscaped area only included the triangular parcel of land between the A92 and the drainage ditch which runs through the application site. It did not include the land on the western side of the ditch where the dwelling house was indicatively shown in both the last application and the current application. All decision making parties were of the view that the strip included the entire extent of the land between the A92 and the property known as Willowbank House. That was clearly incorrect. The reasons for the refusal of the previous application should be reviewed and the current application given positive consideration.
- The quality and maintenance of the landscaping undertaken on the site in response to conditions imposed on Planning Application Reference Number 04/01722/FUL has been quite poor. The

current proposal will ensure that additional landscaping is undertaken within a 10.5 metre strip next to the A92 which will create a setting not only for the dwelling house currently proposed but for the entire Tarriebank Gardens Development.

***Countryside Housing – Supplementary Guidance***

4.30 The Council's Supplementary Guidance on '*Countryside Housing*' was approved by the Council's Planning Committee in October 2016. The main objectives of the Supplementary Guidance are to:

- Provide advice on the interpretation of relevant aspects of Policies TS2 and DS1 of the Angus Local Development Plan, and provide a consistent approach to decision-making;
- Guide new development to appropriate and sustainable locations, where impact on landscape quality is minimised;
- Ensure new development reflects traditional patterns of development in the locality; and
- Promote high quality development in the countryside that respects local character and rural heritage.

4.31 Section 3.4 of the Supplementary Guidance comments on '*Building Groups*' and '*Gap Sites*.' In relation to '*Building Groups*' it states the following:

*'A single new house may be permitted where development would round off an established group of 3 or more closely related residential buildings or buildings capable of conversion for residential use. This should be sited within the building group (i.e. generally located close to other buildings in the group) provided this does not detract from the overall sense of containment and cohesion of the group within its wider landscape setting. Development outwith the boundaries or features that define a group's sense of containment should not be considered as constituting development within or rounding off the building group. Proposals that have a significant detrimental impact on the character of the group, or its landscape setting should be resisted as failing to round off or consolidate the group. Definitions of "sense of containment" and "building group" are contained in the Glossary.'*

4.32 '*Building Group*' and '*Sense of Containment*' are defined as follows:

***'Building Group - A group of at least 3 closely related existing dwellings or buildings capable of conversion for residential use. The building group will require to have a sense of containment.'***

***'Sense of Containment - A sense of containment is contributed to by existing physical boundaries such as landform, buildings, roads, trees, watercourses, or long established means of enclosure such as stone walls. Fences will not normally be regarded as providing a suitable boundary for the purposes of this definition unless they can be demonstrated to define long established boundaries as evidenced by historic OS Maps. Any boundaries artificially created to provide a sense of containment will not be acceptable.'***

4.33 As noted previously there is an established group of eleven existing buildings consisting of ten dwelling houses and a care home at Tarriebank Gardens. The application site represents a logical addition to that established group made more so by the existence of permanent physical features on three of its four sides in the form of the A92, Tarriebank Gardens and the immediately adjoining property known as Willowbank House. The location plan on the following page showing the overall group with the proposed dwelling in place demonstrates conclusively and unequivocally

that the new house will round off the existing group, improve the entrance to the overall development and provide a sense of appropriate containment in the landscape.



*Location Plan demonstrates that proposed dwelling rounds off existing group through development of gap site*

- 4.34 Section 3.4 of the Supplementary Guidance states the following in relation to 'Gap Sites'

*'In Category 1 RSUs a gap site between the curtilage of two existing residential properties or the curtilage of 1 dwelling and a metaled road may be filled by a single dwelling house. A site will not constitute a gap site if it lies within the curtilage of an existing house, or on land that is not clearly defined as being outwith the curtilage of a house or houses. For the purposes of this definition, a house must as a minimum) be wind and watertight to be considered as a dwelling. Housing will not normally be permitted to fill a gap between a house and a non-residential property.'*

- 4.35 A 'Gap Site' is defined in the Glossary to the Supplementary Guidance as follows:

*'the space between the curtilages of two dwellings or between the curtilage of one dwelling and a metaled road – i.e. a stone surface with a hard, crushed rock or stone surface as a minimum. The site should have established boundaries on three sides.'*

- 4.36 As noted previously the application site benefits from clearly defined boundaries on three sides and as such forms a gap site between the A92 to the east; the Tarriebank Gardens access road to the north; and the timber fence boundary with Willowbank House to the west. Although the southern boundary of the site is undefined the boundaries that do exist provide a sense of enclosure and containment consistent with the principle of developing such sites as advocated in both Policy TC2 of the Local Development Plan and Supplementary Guidance.

4.37 Section 4 of the Supplementary Guidance on '*Design Considerations for New Houses in the Countryside*' states the following:

*'In general the design solution for new houses in the countryside should accord with the principles set out in Policies DS3 Design Quality and Placemaking and PV6 Development in the Landscape. Guidance on design of new development in rural locations has been incorporated into the Design Quality and Placemaking Supplementary Guidance.'*

*The basic principles for the siting and design of new houses in the countryside are set out below. New housing development should:*

- *Reflect the traditional pattern of development in the area;*
- *Materials, form, scale and massing of new development should complement and not detract from existing traditional buildings in the area. Contemporary designs based on traditional characteristics will be generally encouraged. New housing based on suburban characteristics will not be supported;*
- *New development should seek to integrate with local landscape context and features and fit into the wider landscape setting not be imposed on it. Obtrusive development (i.e. on a ridgeline, artificially elevated ground or open settings) will not be supported;*
- *Landscaping and boundary treatment should be used to integrate new development with its setting. Proposals should be accompanied by a landscaping plan to demonstrate how the development will integrate into the local landscape setting.'*

4.38 As this is an application for Planning Permission in Principle it is not possible to respond in detail to all of the requirements outlined above. However, what is evident is the fact that this site represents an opportunity to infill a gap site and in the process round off an existing group of buildings on a site that has very clear and well defined physical boundaries on three sides. Those boundaries will assist with the integration of that house within the landscape and without causing adverse impact on or harm to it. As far as design considerations are concerned it would clearly be possible at the detailed stage to design a dwelling house which could fit with and complement the local landscape character. A sensitively designed dwelling house in combination with existing and additional landscaping would enhance views into and out of the Tarriebank Gardens development and result in very significant visual benefits.

4.39 Appendix 3 to the Supplementary Guidance sets out the Criteria that all countryside housing proposals are required to meet. Those criteria and our responses to them are outlined below:

- a      *not create a gap or rounding off opportunity for additional greenfield development. The sub-division of existing residential curtilages to artificially create new build plots will not be supported;*

**Response** – As noted previously the application site is self-contained on three sides and as such constitutes a ‘gap site’ as defined in the Supplementary Guidance. The remaining area of ground to the south of the proposed plot measures 3,026 sq. metres. By exceeding the maximum 2000sq. metre site area threshold specified in (b) below for Category 1 RSUs, policy would not permit the erection of a dwelling house on these lands. We would further add that the erection of any additional housing on the lands to the south would necessitate the formation of a new access onto

the A92 which is unlikely to be considered acceptable. As a consequence of these considerations the approval of the current application would not set a precedent to support any further development on land to the south.

**b** *meet the following plot size requirements (does not apply to proposals for conversion of non-residential buildings):*

- Category 1 RSUs – between 0.08ha/800m<sup>2</sup> and 0.2ha/2000m<sup>2</sup>
- Category 2 RSUs – between 0.06ha/600m<sup>2</sup> and 0.4ha/4000m<sup>2</sup>

**Response** – The application site which measures 1112 sq. metres falls within the 800 – 2000 sq. metres threshold specified for Category 1 RSU's.

**c** *not extend ribbon development;*

**Response** – Ribbon development is defined in the Glossary to the Supplementary Guidance as '*a string of 3 or more houses along a metaled road – i.e. a road with a hard, crushed rock stone surface as a minimum.*' The dwelling house proposed is situated immediately adjacent to a single house within an overall group (including it) of eleven dwelling houses and one nursing home. As a result of these site characteristics the dwelling house as proposed cannot be construed as contributing to ribbon development.

**d** *not result in the coalescence of building groups or of a building group with a nearby settlement;*

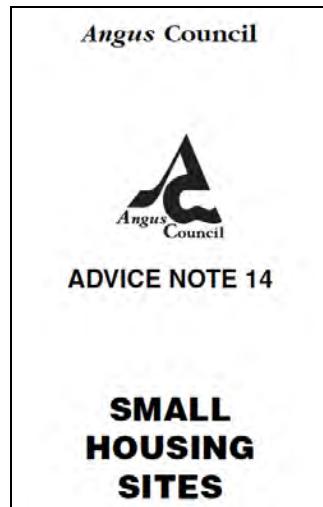
**Response** – The development of the application site for the dwelling house proposed will not result in the coalescence of the established building group with another building group or with a nearby settlement, which in this case would be Marywell.

**e** *contribute to the rural character of the surrounding area and not be urban in form and/or appearance. Materials and design should reflect and complement traditional properties in the locality. Examples of suburban design on nearby or adjacent houses will not be accepted as justification for additional suburban development;*

**Response** – Whilst this is an application for planning permission in principle it is unequivocally clear that the site can comfortably accommodate the dwelling house proposed. Detailed design would be a matter for consideration under an application for approval of matters specified in conditions in the event of planning permission in principle being granted. As noted previously the site is clearly capable of accommodating a dwelling which will not only compliment the wider development but improve the views into and out of it.

**f** *provide a good residential environment, including useable amenity space/private garden ground, and adequate space between dwellings whilst retaining the privacy of adjacent properties. Guidance on private amenity space and distance between dwellings is set out in the Design Quality and Placemaking Supplementary Guidance. In countryside areas application of this guidance will have regard to the nature of the location and adjoining properties. The extension of property curtilage in relation to proposals for renovation or conversion of existing buildings may be permitted in line with Angus Council's Advice Note 25 – Agricultural Land to Garden Ground.*

**Response** – The application site is clearly capable of delivering a high quality residential environment including usable private amenity space and sufficient distance between it and the neighbouring property so as to ensure that neither is compromised in any way as a result of privacy loss. The proposal also complies with the Council's Advice Note 14 on 'Small Housing Sites' in terms of minimum standards to be achieved for private amenity space and distance between dwellings



- g** make provision for affordable housing in line with Policy TC3: Affordable Housing and the guidance set out in the Developer Contributions and Affordable Housing Supplementary Guidance;

**Response** – Given the scale of development proposed there is no requirement for the provision of affordable housing in association with it.

- h** where the proposed development will have a demonstrable cumulative impact on infrastructure and community facilities provision, an appropriate developer contribution will be sought. Guidance on the range of contributions that may be sought from residential development and the methodologies for calculating the contribution are set out in the Developer Contributions and Affordable Housing Supplementary Guidance.

**Response** – Whilst our client has no objection to the principle of making developer contributions, any such contributions sought should be directly related to the impacts arising from the development in accordance with the principles set out in Scottish Government Circular 3/2012 on 'Planning Obligations and Good Neighbour Agreements.' We are unaware of any justification in seeking developer contributions in this particular instance.

- i** not adversely affect or be affected by farming or other rural business activities (subject to provision of a good residential environment may not apply to proposals for essential worker housing required for the management of land or other rural business);

**Response** – The proposed dwelling house will not have an adverse effect on any existing farming or rural based enterprise in the area.

- j not take access through a farm court; (subject to provision of a good residential environment may not apply to proposals for essential worker housing required for the management of land or other rural business);*

**Response** – Access to the development site is from an existing publicly adopted road. That access does not run through a farm court.

- k not require an access road of an urban scale or character. The standard of an access required to serve a development will give an indication of the acceptability of the scale of the development in a rural location, e.g. where the roads standards require a fully adoptable standard of road construction with street lighting and is urban in appearance it is likely that the development proposals will be too large. The standard of the existing access should be taken into account when assessing a development proposal. Improvements should only be required where these would be necessary to provide ease of vehicular access to the existing and proposed development, or for road safety purposes;*

**Response** – Access to the proposed dwelling house will be taken off the existing access road serving Tarriebank Gardens which is already adopted.

- 4.34 Having assessed the proposal against the terms of the development plan and all other material considerations we are firmly of the view that our client's application which seeks planning permission for the erection of a single dwelling house on this site should be granted planning permission in principle.

## **5. SUMMARY AND CONCLUSIONS**

5.1 The following bullet points set out a summary of our client's planning application and the reasons supporting a positive recommendation:

- The application site lies to the south and east of an existing building group at Tarriebank Gardens which is located on the western side of the A92 to the north of Marywell, near Arbroath. The existing building group includes ten detached dwelling houses and Tarriebank House Care Home.
- The site, which measures c.1112 sq. metres is located to the immediate south of the access road into Tarriebank Gardens and to the immediate west of the A92. There are a number of semi mature trees along the western boundary of the site next to the neighbouring property which is known as Willowbank House. A landscaping strip of variable quality exists along the eastern boundary next to the A92. The remainder of the site has recently been cleared of scrub vegetation. The southern boundary of the site is undefined in nature but quite significantly aligns with the rear boundary of Willowbank House. An existing drainage ditch runs through the site in a north to south direction.
- The application submitted seeks planning permission in principle for the erection of a dwelling house on the site. The indicative layout submitted with the application shows a dwelling house occupying a central position to the south of the site fronting onto and accessed off Tarriebank Gardens. A 10.5 metre wide landscaped strip is suggested for retention along the boundary with the A92 with a vertically boarded timber fence and hedging on the inner (western edge) defining the boundary of its garden area. It is suggested that the boundary with Tarriebank Gardens could be defined with hedging and specimen trees; the boundary to the west with Willowbank House will remain as existing (timber fence); and the boundary to the south could be delineated with specimen tree planting/hedging.
- Policy TC2 of the Angus Local Development Plan along with the Council's Supplementary Guidance on Countryside Housing supports the erection of a single new house in countryside locations in situations where it would round off an established building group of 3 or more existing dwellings or buildings capable of conversion to residential use. It also supports the erection of a dwelling house where it involves the development of a '*gap site*', which for the area in which the site is located, is defined as a site between the curtilage of two existing residential properties or the curtilage of one dwelling and a metalled road.
- The application site is of a '*gap*' nature having clearly defined boundaries on three of its four sides. It is bounded to the north by the access road to Tarriebank Gardens; to the east by the A92; and to the west by the timber fenced boundary with the neighbouring property, Willowbank House. The site also benefits from a very strong and coherent relationship with the established group of buildings at Tarriebank appearing as a logical addition to that and rounding the group off in a manner which will result in a significant improvement to its setting and improving views into and out of it.

- An application for planning permission in principle for the erection of a dwelling house on the site was previously refused by the Council's Planning Department and a request to review that decision dismissed by the Council's Development Management Review Committee (Reference Number 11/0115/PPPL). The three reasons for the refusal of that application erroneously referred to the fact that the dwelling house was proposed on an area of landscaping required to be provided as part of the original Tarriebank Gardens Development which was approved in August 2005 under Planning Application Reference Number 04/01722/FUL. An examination of the plans relating to that development have revealed that the dwelling house was proposed on an area of ground to the west of the landscaping strip rather than within the landscaping strip as claimed.
  - The quality and maintenance of the landscaping undertaken on the site in response to conditions imposed on Planning Application Reference Number 04/01722/FUL has been poor. The current proposal will ensure that additional landscaping is undertaken within a 10.5 metre strip next to the A92 which will create a setting not only for the dwelling house currently proposed but for the entire Tarriebank Gardens Development.
- 5.2 In light of the considerations outlined above it is respectfully requested that planning permission be granted for the erection of a single dwelling house on the site. We reserve the right to provide additional information in support of this application prior to its determination if considered necessary or justified.

Signed [REDACTED]  
Derek Scott

Date 27<sup>th</sup> July 2017

## ANGUS COUNCIL

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

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT  
PROCEDURE) (SCOTLAND)**

**REGULATIONS 2013**



**PLANNING PERMISSION IN PRINCIPLE REFUSAL  
REFERENCE : 17/00647/PPPL**

To      **Mr Alistair Burnett**  
**c/o John D Crawford Ltd**  
**72 New Wynd**  
**Montrose**  
**Angus**  
**DD10 8RF**

With reference to your application dated 2 August 2017 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

**Erection of Dwelling House at Land Adjacent To Tarriebank Gardens Tarriebank Arbroath for Mr Alistair Burnett**

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission in Principle (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans 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 TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality.
2. That the application is contrary to Policy PV15 of the Angus Local Development Plan 2016 as the proposal involves provision of a private waste water treatment system within an area served by the public sewer.
3. That the application is contrary to Policy DS1 of the Angus Local Development Plan 2016 as the proposal is not in accordance with relevant policies of that Plan, namely Policies TC2, DS3, DS4 and PV15.

**Amendments:**

The application has not been subject of variation.

Dated this **10 October 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.

<b>Determination Type</b>	<b>What does this mean?</b>	<b>Appeal/Review Route</b>
<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> – <i>See details on attached Form 1</i>
<b>Delegated Decision</b>	Local developments determined by 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> – <i>See details on attached Form 2</i>
<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> – <i>See details on attached Form 1</i>

## **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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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:-**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<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?**

Very satisfied	Fairly satisfied	Neither Satisfied nor Dissatisfied	Fairly Dissatisfied	Very Dissatisfied
<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  Refused Permission/Consent  Withdrawn

**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.

## Angus Council

<b>Application Number:</b>	17/00647/PPPL
<b>Description of Development:</b>	Erection of Dwelling House
<b>Site Address:</b>	Land Adjacent To Tarriebank Gardens Tarriebank Arbroath
<b>Grid Ref:</b>	365200 : 744879
<b>Applicant Name:</b>	Mr Alistair Burnett

## Report of Handling

### Site Description

The application site is a 1,112sqm area of woodland some 770m north of Marywell. The site lies west of the A92 road and West Woods of Ethie and south east of Tarriebank House Residential Care Home and the Tarriebank Gardens housing development. The application site lies at the north west of a roadside woodland strip and now consists of thinly dispersed mature trees and planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre. The site is bound at the west by residential garden ground of the Willowbank dwelling house, at the north by the access road to the care home and housing development, at the south by a further area of scrubland and the Robinhill dwelling house, and at the east by a strip of landscape planting formed as a requirement for Planning Permission Reference: 04/01722/FUL for the erection of the 8 existing dwelling houses at Tarriebank Gardens. A 2,070sqm area of adjacent ground south of the application site and extending to the Robinhill dwelling at the south is shown as being in the applicant's ownership.

In the wider context, Tarriebank lies to the west of the A92 road and consists of a traditional countryside house that is currently operated as a residential care home for the elderly. A housing development consisting of eight modern detached dwellings lies to the northeast of the former country house. The development known as Tarriebank Gardens has a long planning history but essentially came into being following the granting of a Certificate of Lawful Use (00/00991/CLU) that established that planning permission reference: 01/90/0597 for the erection of five dwellings had been initiated and was therefore extant. One further dwelling (Willowbank House) lies to the south of the access into Tarriebank House and west of the application site. The access into Tarriebank is a formal bellmouth junction with the A92 road. Residential curtilages are set back from the junction with the primary route at a distance of around 40m on both sides of the intersection.

### Proposal

This is an application for planning permission in principle for the erection of a single dwelling house. Access to the site would be taken from the existing access road to the wider Tarriebank site. An indicative site plan has been provided showing a dwelling at the south west corner of the site and driveway with 2 vehicle parking spaces at the north. A timber fence would form a boundary treatment around the site perimeter, with hedging provided at the east and south boundary. A 315sqm area of the existing landscaped strip required under Planning Permission Reference: 04/01722/FUL for the Tarriebank Gardens housing development would be incorporated into the east of the application site but retained, with the perimeter fence, a gate and hedging forming a west boundary for the strip.

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 11 August 2017.

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

### **Planning History**

**Outline planning permission application reference: 07/01602/OUT for the erection of three dwellings was withdrawn on 14 January 2008 prior to determination.**

**The site forms part of a wider area taking in land to the south that formed the subject of outline planning permission application reference: 08/01409/OUT for three dwellings which was refused on 12 March 2009 for the following reasons:**

1. That the application is contrary to Policy SC6 of the adopted Angus Local Plan Review (2009) as the proposal is not for a single house to round off or consolidate a building group (criterion a), is not for a single house on a gap site (criterion b), is not a redundant rural brownfield site (criterion c) and is not located within a Category 2 Rural Settlement Unit (criterion d);
2. That the application is contrary to criterion (a) and (b) of Schedule 2: Countryside Housing Criteria of the adopted Angus Local Plan Review (2009) as the site itself is not self contained and is larger than 2000 sq.m;
3. That the development proposed is contrary to Policy S1 of the adopted Angus Local Plan Review (2009) as a result of the failure of the proposal to satisfy the policy test of Policy SC6.

**A subsequent appeal (P/PPA/120/270) was dismissed as the proposal was found to be inconsistent with Development Plan policies.** In summing up the Reporter stated:

'I do not consider that [the] existence [of Tarriebank Gardens] establishes any precedent or justification for further housing in this rural location. To my mind Tarrienbank Gardens already appears as a somewhat incongruous suburban development in the countryside.'

**Planning permission application reference: 11/01115/PPPL for the erection of a single dwelling house at the site was refused on 19 January 2012 for the following reasons:**

1. The proposed development is considered to be inappropriate in form as it would extend an urban development form in a countryside location into a landscape strip that was required in the interests of amenity as part of the planning permission that established Tarriebank Gardens. The proposal is therefore contrary to Policy S3 of the Angus Local Plan Review and on this basis as it would be detrimental to the quality of the local landscape and would be at odds with the existing development pattern that maintains a landscape buffer between existing built development and the A92 Road;
2. The proposal would extend a development form that was considered to be incongruous in the consideration of appeal reference P/PPA/120/270 into the landscape strip that has been established as long term mitigation in respect of existing development at Tarriebank Gardens. As such the proposal does not meet the requirements of Criterion e) of Schedule 2 in the Angus Local Plan Review and consequently does not conform to Policy SC6 in the Angus Local Plan Review which states that countryside housing proposals must meet Schedule 2 criteria;
3. The proposal is considered to represent an inappropriate development form in the RSU 1 Countryside Housing Area as identified in the Angus Local Plan Review and is contrary to Policies S3 and SC6 in that plan by virtue of its proposed encroachment into an amenity landscape strip that was required as long-term mitigation for another nearby development. As such the proposal is contrary to Policy S1 in the Angus Local Plan Review which only generally supports proposals in the countryside that are appropriate in nature to their location and which accord with other relevant Local Plan policies.

**A subsequent appeal to the Development Management Review Committee (DMRC) was dismissed on 06 June 2012.** The DMRC concluded that the proposed development by virtue of its location was inappropriate and was not in compliance with the Policies SC6, S3 or S1 of the Angus Local Plan Review 2009 and there were no other material considerations that warranted approval of the application. A copy of the drawing considered by the DMRC and its decision on the proposal are attached as Appendix 1.

### **Applicant's Case**

Supporting documentation was submitted. The documentation consists of: -

Supporting Statement - This is an overarching document, prepared by Derek Scott Planning, Planning and Development Consultants, and submitted in support of the application. The statement describes in detail the application site, the proposal and the planning history of the site and assesses the proposal in the context of national and local planning policy and supplementary guidance. The statement concludes the application site is a gap site and the proposal would round off an established building group of 3 or more existing dwellings in accordance with Policy TC2 of the Angus Local Development Plan. The statement states the proposal would be a logical addition and would round off the building group in a manner which would result in a significant improvement to its setting and improve views to and from the existing building grouping. The statement asserts the reasons for the refusal of previous planning permission reference: 11/01115/PPPL for a similar proposal and subsequent dismissal of an appeal to the Development Management Review Committee were erroneous, as the reasons referred to the proposed dwelling house being located on the landscaping strip required under planning permission 04/01722/FUL for the wider Tarriebank Gardens housing development. The statement states the house was proposed on an area of ground west of the landscaping strip and the quality and maintenance of the landscaping undertaken in response to the conditions requiring this strip under Planning Permission 04/01722/FULL has been poor. It concludes the current proposal would ensure additional landscaping is undertaken within a 10.5m strip next to the adjacent A92 and requests planning permission be granted for a single house at the site.

Letter from Agent regarding application not to be withdrawn - Written by the agent John D Crawford Ltd. Architectural Services on 31 August 2017 and submitted in support of the application, the letter was sent in response to an e-mail from the Planning Officer advising the proposal was contrary to the provisions of the Angus Local Development Plan and would be refused. The letter challenges the Officer's consideration and advises the application is not to be withdrawn.

## Consultations

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

**Angus Council - Roads** - Offered no objection to the proposal provided conditions are applied providing a verge crossing at the access, sufficient number of parking spaces, access designed to prevent the discharge of water on to the public road and regulating the location of any garage building proposed at the site.

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

## Representations

Two letters of representation were received offering objection to the application. The main points of concern were as follows:

- o The proposal does not comply with the development plan or national guidance;
- o A reduction in the amenity value of the surrounding area and inadequacy of existing planting to mitigate Tarriebank Gardens;
- o Impact on the residential amenity of neighbouring property;
- o Inaccuracy of distance from proposed house to neighbouring Willowbank House;
- o The water supply would be pushed beyond capacity and Scottish Water will have to upgrade facilities;
- o Impact on traffic safety and exacerbating hazardous access on unrestricted A92 road;
- o Impact from road noise from A92.

These matters will be addressed in the Assessment section below.

Other matters raised are addressed as follow:

- o Assurances had been provided by builders of Tarriebank Gardens that no other properties would be built in Tarriebank. Following this a further bungalow and extension to the care home have been approved

- previous assurances provided by a developer to private individuals are a civil matter and are not a material planning consideration. The bungalow and care home extension were both granted the requisite planning permissions (references: 13/00002/FULL and 16/00424/FULL respectively);

o Several trees at the entrance to the care home are in very bad condition and have fallen into neighbouring gardens and the road – safety issues associated with existing trees within private property a civil matter.

## **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 PV6 : Development in the Landscape

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 2 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 relates to the erection of a dwelling house in a Category 1 Rural Settlement (RSU1) in a countryside location. Policy DS1 in the Angus Local Development Plan (ALDP) indicates that 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. 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 new proposals for residential development. The application site is located within a Category 1 Rural Settlement Unit (RSU). Category 1 RSU's are areas that are not remote from towns and where the Council's policy towards new countryside housing is more restricted, as development should be directed towards existing settlements as defined by the ALDP.

Policy TC2 indicates that in countryside locations Angus Council will support proposals for new dwelling houses which fall into at least one of a number of categories. That policy is supported by adopted supplementary guidance. In terms of possible acceptable situations, the proposal would not involve retention, renovation or acceptable replacement of an existing house; it does not involve conversion of a non-residential building; it does not involve redevelopment of a brownfield site that delivers significant visual or environmental improvement; and it is not required for an essential worker in association with a rural business.

There is a building group which has developed around Tarriebank House. However, that building group has very clearly defined limits. In an easterly direction the extent of the building group is defined by areas of woodland, some of which has been felled. The proposed site is located entirely within what was the woodland area and it would extend the building group in an easterly direction. The proposal would not round off a building group. In addition, approval of this application could lead to pressure for similar development on land to the north of the access road which would not be consistent with criterion (a) of Appendix 3 of the Council's approved Countryside Housing Supplementary Guidance.

The site lies to the east of an existing dwelling but is separated from the A92 by an area of land that is identified on the submitted plans as a visibility splay. This differs slightly from the planning application in 2011 which identified the site boundary extending to the boundary of the carriageway. Notwithstanding that slight difference the site retains the characteristics of a gap site.

As the proposal is consistent with one of the criteria that would potentially allow a new house in a countryside location, it is relevant to have regard to other policy considerations. In that respect Policy TC2 states that proposals for new residential development must not result in unacceptable impact on the built and natural environment or surrounding amenity. Policy DS3 requires development proposals to 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. It indicates that development should fit with the character and pattern of development in the surrounding area. Policy DS4 deals with amenity and indicates that development must have regard to opportunities for maintaining and improving environmental quality. Criterion (e) of Appendix 3 to the Countryside Housing Supplementary Guidance states that proposals should contribute to the rural character of the surrounding area and not be urban in form and/or appearance.

At present built development/garden areas is set back from the A92 road by a woodland strip of around 30-40m width on the north and south of access into Tarriebank. The Reporter that dismissed the previous appeal in this area (P/PPA/120/270) commented that: *'I do not consider that [the] existence [of Tarriebank Gardens] establishes any precedent or justification for further housing in this rural location. To my mind Tarriebank Gardens already appears as a somewhat incongruous suburban development in the countryside.'* The Development Management Review Committee (DMRC), in refusing permission for a similar single house development on a similar site, considered that '*the granting of planning consent would extend an urban development form in a countryside location*'. The current proposal differs little in practical terms to the proposal that was refused by the DMRC in 2011. It would extend the built development in an easterly direction and would reinforce an urban character that is inappropriate in the rural area. That urban form of development on undeveloped land would not maintain or improve the environmental quality of the area. In this respect the proposal is contrary to policies TC2, DS3 and DS4 as well as Criterion (e) of Appendix 3 to the Council's approved Countryside Housing Supplementary Guidance.

The applicant has indicated that the proposal would have a private foul drainage system. This is an area where there is a public sewer and therefore a private system would be contrary to policy unless it is demonstrated that a connection is not economically or technically possible. No information has been provided with the application to demonstrate why a connection to the public sewer cannot be made and in this respect the application is contrary to Policy PV15.

The proposal does not give rise to significant issues in terms of other policy considerations. However, for the reasons set out above the application is contrary to Policies TC2, DS3, DS4 and PV15 as well as Criterion (e) of Appendix 3 to the Council's approved Countryside Housing Supplementary Guidance. On that basis the application is also contrary to Policy DS1 of the ALDP.

In terms of other material planning considerations, it is relevant to have regard to the previous refusals of applications for residential development at the site and the subsequent dismissal of appeals by Scottish Ministers and the Development Management Review Committee. The application that was refused by the Development Management Review Committee was for the same form of development on a very similar site. The development plan framework has been updated in the period since those decisions were made but the basic considerations relating to the undesirability of extending an urban form of development in a rural area have not changed. In this respect the previous decisions, and in particular the decision of the Development Management review Committee on a similar proposal at this location merits some weight.

In addition, the representations submitted in respect of the application are also relevant in so far as they raise material planning matters. The concerns raised regarding compatibility with relevant development plan policy and the overall adverse impact of the development on the amenity of the area support the conclusions reached in this report.

The neighbouring house to the west known as Willowbank is in excess of 20 metres from the boundary of the application site. There is no reason to consider that a suitably designed house could not be provided

on the site in a manner that ensured no unacceptable impact on the amenity of occupants of the neighbouring dwelling.

The concerns regarding water supply are noted. Scottish Water has been consulted on the application but has offered no objection to this application.

The Roads Service has offered no objection to the application in terms of road traffic safety. The site could accommodate off-street parking at the level required by Council policy.

There are existing houses closer to the public road and traffic noise from the A92 would not justify refusal of planning permission.

The applicant asserts the reasons for the refusal of previous planning permission reference: 11/01115/PPPL for a similar proposal and subsequent dismissal of an appeal by the Development Management Review Committee (DMRC) were erroneous, as the house proposed for that application [and for this current application] was located west of the existing landscape strip. However, there is no doubt that the application site (both past and present) comprises previously undeveloped land, much of which was formerly woodland and an area of which was included as landscaping associated with Planning Permission Reference: 04/01722/FUL for the Tarriebank Gardens housing development. As previously indicated the proposal would extend the urban form of development into this area and it is this basic form of development that has previously been found unacceptable. The reasons for refusal cited by the DMRC in 2011 are not considered erroneous and it is noted that the decision was not challenged at that time.

In conclusion, the proposal is contrary to Policies TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a rural area in a manner that would detract from the amenity of the area and would not maintain or improve environmental quality. A very similar proposal at this location has previously been refused planning permission by the Development Management Review Committee. There has been no material change in circumstance in the intervening period that would now justify a grant of planning permission. Letters of objection support the conclusion that the proposal is contrary to policy and would detract from the general amenity of the area. In addition, the applicant has proposed a private sewerage arrangement in an area served by the public sewer. Such a proposal is contrary to Policy PV15 of the ALDP. The proposal is contrary to the development plan and there are no material considerations that justify approval of planning permission.

### **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 TC2, DS3 and DS4 of the Angus Local Development Plan and its accompanying Countryside Housing Supplementary Guidance because it would extend an inappropriate urban pattern of development in a manner that would detract from the amenity of the rural area and would not maintain or improve environmental quality.
2. That the application is contrary to Policy PV15 of the Angus Local Development Plan 2016 as the proposal involves provision of a private waste water treatment system within an area served by the public sewer.
3. That the application is contrary to Policy DS1 of the Angus Local Development Plan 2016 as the proposal is not in accordance with relevant policies of that Plan, namely Policies TC2, DS3, DS4 and PV15.

Case Officer: Fraser MacKenzie  
Date: 10 October 2017

**Appendix 1 – DMRC Decision on application 11/01115/PPPL (and accompanying site plan)**  
**Appendix 2 - Development Plan Policies**

**Appendix 1**

**DMRC Decision on application 11/01115/PPPL (and accompanying site plan)**

Development Management Review Committee

DMRC – 29 May 2012

Review Decision Notice

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Decision by Development Management Review Committee (DMRC)

- Site Address: Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath
- Application for review by Fox Planning Consultancy on behalf of Mr Alistair Burnett
- Application No. 11/01115/PPPL for Planning Permission in Principle for the Erection of a Dwellinghouse on Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath
- Application Drawings: Application Site Plan

Date of Decision Notice: 6 June 2012

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Decision

The DMRC upheld the decision taken by the Head of Planning and Transport and dismissed the review.

**Preliminary**

1. This notice constitutes the formal Decision Notice of the Development Management Review Committee as required by the Town & Country Planning (Scheme of Delegation and Local Review Procedures) (Scotland) Regulations 2008.
2. The above application for planning permission in principle was considered by the DMRC on 29 May 2012. The Committee was attended by Councillor David Lumgair (Chair), Councillor Bill Bowles, Councillor Jeanette Gaul, Councillor Alex King, and Councillor Bob Spink.

**Proposal**

3. Planning permission in principle was sought for the erection of a dwellinghouse on a site of approximately 1270 square metres located at Tarriebank, north of Arbroath. The site lies at the north of a recently augmented roadside woodland strip that now consists of a scrubland area with thinly dispersed mature trees and new tree planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre.

4. Tarriebank lies to the west of the A92 road and consists of a traditional country house that is currently operated as a residential care home for the elderly. A recently erected housing development consisting of eight modern detached dwellings lies to the east of the former country house. The residential dwelling, Willowbank House, lies to the south of the access into Tarriebank House. The access into Tarriebank is a formal bellmouth junction with the A92 road.

### **Reasoning**

5. The determining issues in this review were:-
  - (1) whether the proposal would accord with the provisions of the Development Plan;
  - (2) whether there were any other material considerations which should be taken into account.
6. The DMRC considered the papers submitted by the applicant and the planning authority and determined that they had sufficient information to come to a decision.
7. The DMRC noted the planning history in relation to Tarriebank and in particular in relation to a previous appeal a Reporter had concluded that Tarriebank Gardens appears as a somewhat incongruous suburban development in the countryside. It was considered by the DMRC that Policy S3 was relevant to the consideration of the proposal. Policy S3 requires that the site location and how the development fits with the local landscape character and pattern of development are taken into account. It was noted that at present the built development is set back from the A92 road by a young woodland strip of around 40 metres in width on both sides of the access into Tarriebank. Some replanting has taken place within these strips which were established in order to reduce the impact of a Tarriebank garden scheme from the A92 road. It was noted by the DMRC that the area in question was in fact subject of an approved native planting scheme which was conditional of planning permission 04/01722/FUL which is the planning permission that established Tarriebank Gardens and this planted strip was important in attempting to reduce the visual impact of Tarriebank Gardens. It was considered by the DMRC that the granting of planning consent would represent a deviation from the existing development pattern and would extend an urban development form in a countryside location into a landscaped strip that was required in the interests of amenity. In so doing the landscape buffer between the existing built development and the A92 road would be severely compromised.
8. In conclusion the DMRC considered that the proposed development by virtue of its location was inappropriate and was not in compliance with Policies SC6, S3 or S1 of the Angus Local Plan Review 2009. There were no other material considerations that warranted approval of the application.



## **Appendix 2**

### **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 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>)

#### Advice Note 5 : Houses in the Open Countryside

Development Management Review Committee

DMRC – 29 May 2012

Review Decision Notice

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Decision by Development Management Review Committee (DMRC)

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- Application Drawings: Application Site Plan

Date of Decision Notice: 6 June 2012

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Decision

The DMRC upheld the decision taken by the Head of Planning and Transport and dismissed the review.

**Preliminary**

1. This notice constitutes the formal Decision Notice of the Development Management Review Committee as required by the Town & Country Planning (Scheme of Delegation and Local Review Procedures) (Scotland) Regulations 2008.
2. The above application for planning permission in principle was considered by the DMRC on 29 May 2012. The Committee was attended by Councillor David Lumgair (Chair), Councillor Bill Bowles, Councillor Jeanette Gaul, Councillor Alex King, and Councillor Bob Spink.

**Proposal**

3. Planning permission in principle was sought for the erection of a dwellinghouse on a site of approximately 1270 square metres located at Tarriebank, north of Arbroath. The site lies at the north of a recently augmented roadside woodland strip that now consists of a scrubland area with thinly dispersed mature trees and new tree planting. A drainage ditch that extends the length of the roadside strip dissects the site roughly through its centre.

4. Tarriebank lies to the west of the A92 road and consists of a traditional country house that is currently operated as a residential care home for the elderly. A recently erected housing development consisting of eight modern detached dwellings lies to the east of the former country house. The residential dwelling, Willowbank House, lies to the south of the access into Tarriebank House. The access into Tarriebank is a formal bellmouth junction with the A92 road.

### **Reasoning**

5. The determining issues in this review were:-
  - (1) whether the proposal would accord with the provisions of the Development Plan;
  - (2) whether there were any other material considerations which should be taken into account.
6. The DMRC considered the papers submitted by the applicant and the planning authority and determined that they had sufficient information to come to a decision.
7. The DMRC noted the planning history in relation to Tarriebank and in particular in relation to a previous appeal a Reporter had concluded that Tarriebank Gardens appears as a somewhat incongruous suburban development in the countryside. It was considered by the DMRC that Policy S3 was relevant to the consideration of the proposal. Policy S3 requires that the site location and how the development fits with the local landscape character and pattern of development are taken into account. It was noted that at present the built development is set back from the A92 road by a young woodland strip of around 40 metres in width on both sides of the access into Tarriebank. Some replanting has taken place within these strips which were established in order to reduce the impact of a Tarriebank garden scheme from the A92 road. It was noted by the DMRC that the area in question was in fact subject of an approved native planting scheme which was conditional of planning permission 04/01722/FUL which is the planning permission that established Tarriebank Gardens and this planted strip was important in attempting to reduce the visual impact of Tarriebank Gardens. It was considered by the DMRC that the granting of planning consent would represent a deviation from the existing development pattern and would extend an urban development form in a countryside location into a landscaped strip that was required in the interests of amenity. In so doing the landscape buffer between the existing built development and the A92 road would be severely compromised.
8. In conclusion the DMRC considered that the proposed development by virtue of its location was inappropriate and was not in compliance with Policies SC6, S3 or S1 of the Angus Local Plan Review 2009. There were no other material considerations that warranted approval of the application.

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

**Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)**

### **Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
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 V of the Town and Country Planning (Scotland) Act 1997 (As Amended).



61 June 2012



Development Management Review Committee

DMRC – 29 August & 3 October 2017

Review Decision Notice

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**Decision by Development Management Review Committee (DMRC)**

- Site Address: Land West of Bella Cottage, Logie Pert, Montrose
- Application for review by Mr Johnathan Mears
- Application no 17/00215/PPPL for Erection of Dwellinghouse.
- Application Drawings: Proposed Location Plan & Aerial Photograph Drawing No: JDC/707/001.PPP Scale 1:1250

Date of Decision Notice: 6 October 2017

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**Decision**

The DMRC upheld the review and approved the application subject to conditions.

**Preliminary**

1. This notice constitutes the formal Decision Notice of the Development Management Review Committee as required by the Town & Country Planning (Scheme of Delegation and Local Review Procedures) (Scotland) Regulations 2013.
2. The above application for review was considered by the DMRC on the 29 August 2017. The Committee was attended by Councillor Gavin Nicol (Chair), Councillor Bob Myles, Councillor Alex King, Councillor Bill Duff and Councillor Richard Moore.
3. No letters of representation were received in relation to the planning application.
4. The DMRC considered the papers submitted by the applicant and the planning authority and concluded they had sufficient information to come to a decision.

**Proposal**

5. The application seeks planning permission in principle for the erection of a dwellinghouse. The existing access to the site is proposed to be used to access the property. The proposed dwellinghouse would connect to the

public water supply and sustainable drainage methods utilised for the disposal of surface water.

### **Reasoning**

6. The determining issues in this review were:-
  - (i) Whether the proposal would accord with the provisions of the Development Plan ;
  - (ii) Whether there were any other material considerations that should be taken into account
7. The DMRC discussed the application in the context of Policy TC2: Residential Development and Supplementary Guidance on Countryside Housing. Members acknowledged that there was an existing building group as outlined in the officer's report to include the 2 residential dwellings and the steading. Thereafter discussion considered whether the application would round off this group and whether features of the site would provide a sense of containment. Members considered that the access track to the east of the site was not necessarily a feature which contributed to the sense of containment and the site had a clear relationship with the existing properties, therefore would round off an established building group as identified in Policy TC2.
8. The DMRC therefore concluded the application to be in accordance with Policy TC2 of the Angus Local Development Plan and Supplementary Guidance on Countryside Housing and upheld the appeal.

### **Conditions Relating to the Grant of Planning Permission**

The following conditions were submitted to and approved by the DMRC at their meeting of 3 October 2017:

1. That plans and particulars of the matters listed below shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given. Thereafter the development shall be carried out in accordance with the approved details prior to the occupation of the dwellinghouse(s).
  - The siting, design and external appearance of the building(s);
  - The layout of the site including access, car parking and turning space;
  - The means of site enclosure;
  - The existing and proposed ground levels and finished floor levels relative to a fixed ordnance datum and ground and floor levels of neighbouring properties;
  - Precise details of the means of drainage for the development. For the avoidance of doubt the surface water will be directed to a sustainable urban drainage system.

- A scheme detailing the landscaping of the site. The submitted scheme shall include details of new tree/hedge planting and a full tree survey (including all existing trees on/adjacent to the site together with measures for their protection in the course of development);
- A Flood Risk Assessment. The assessment shall be comprehensive and include an assessment of the risks of flooding both within and out-with the site as a result of its development.

Reason: To ensure that the matters referred to are given detailed consideration in the interests of providing a satisfactory residential environment as required by development plan policy.

6 October 2017

Signed .. [REDACTED] ..

Sheona C Hunter

Head of Legal and Democratic Services

Place Directorate

Angus House

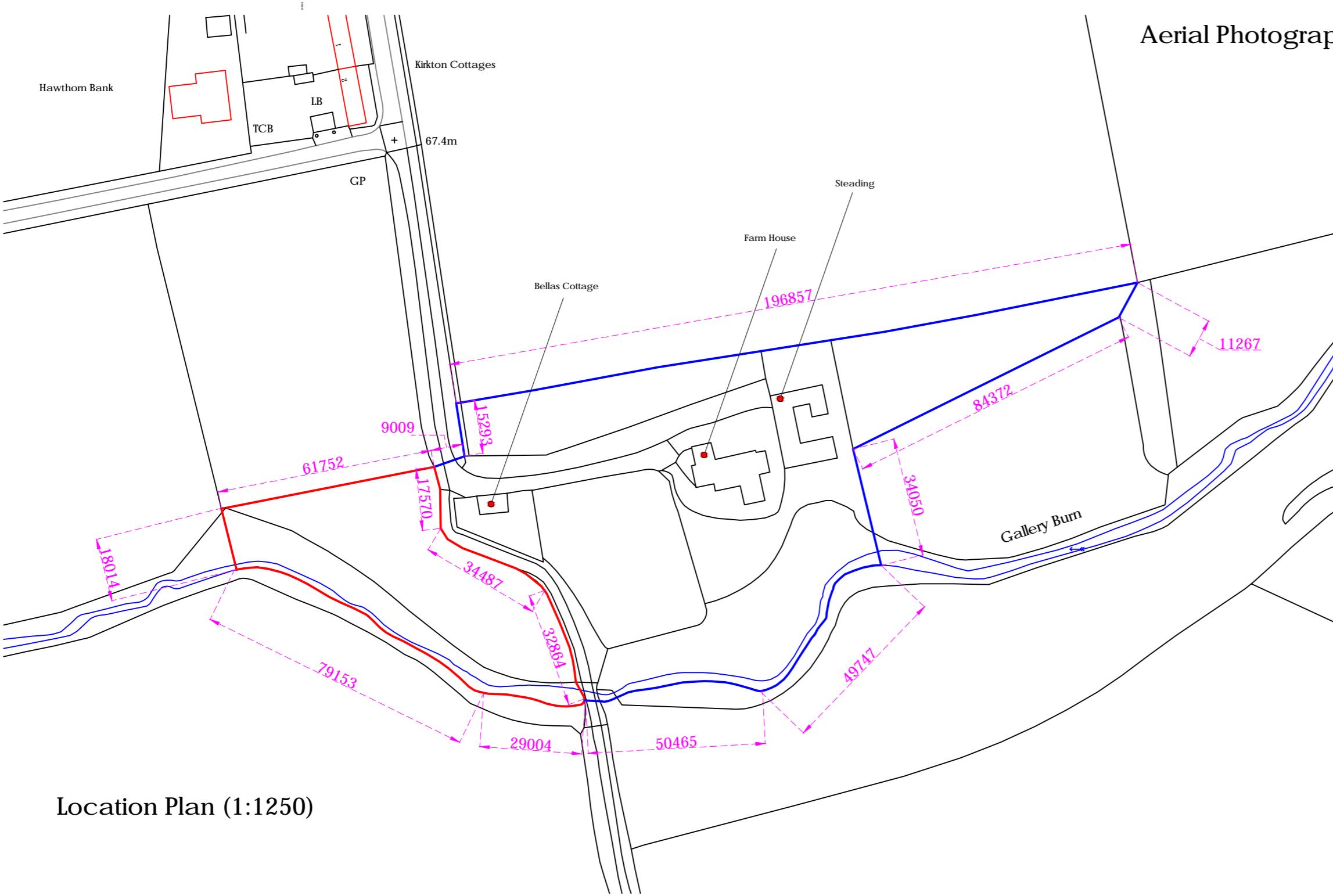
Forfar

DD8 1AN

## ITEM 5(b)



N



Aerial Photograph (1:1250)

REVISION	DATE	DESCRIPTION OF REVISION
CLIENT	Mr & Mrs Mears	
PROJECT	Proposed Erection of Dwellinghouse Bella's Field, Logie Pert, Montrose, DD10 9JX	
DRAWING TITLE	Proposed Location Plan & Aerial Photograph	
SCALE	DATE	DRAWING NO.
1:1250	17.12.16	JDC-001
KJC		
This drawing is issued for the purpose of the status indicated below		
<input type="checkbox"/>	Sketch Proposal	
<input type="checkbox"/>	Planning Application Submission	
<input checked="" type="checkbox"/>	Planning Application	
<input type="checkbox"/>	Building Warrant Application Submission	
<input type="checkbox"/>	Building Warrant Application	
<input type="checkbox"/>	Tender Issue	
<input type="checkbox"/>	Construction Drawings to be Adhered to on Site	

**john d crawford Ltd**  
ARCHITECTURAL SERVICES  
72 New Wynd Montrose  
Angus  
DD10 8RF  
email | info@johndcrawford.co.uk  
tel | 01674 672064 fax | 01674 672126

## **APPENDIX 3**

### **FURTHER LODGED REPRESENTATIONS**

04 JAN 2018

Time 1010 Ints as

Willowbank House  
Marywell  
Arbroath  
Angus DD11 5RF

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

Planning Application Reference 17/00647/PPPL - DMRC-12-17

**Proposed Development of Land adjacent to Tarriebank Gardens,  
Tarriebank, Arbroath**

Friday December 29<sup>th</sup> 2017

Dear Ms Forsyth

Thank you for your letter of December 19<sup>th</sup> last received by us on December 23<sup>rd</sup>.

We wish to reinforce our objections to the proposed development as set out in the above referenced planning application, a copy of which you have.

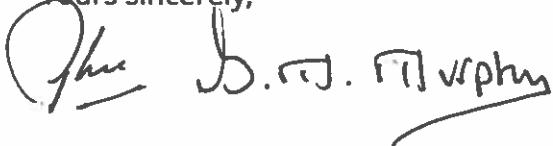
We would add to these objections that we are very disturbed to see that the proposed site has now been cleared; all of the saplings planted subsequent to the clearing of the wooded area on the last development have been cleared and the ground prepared as if for development.

We are concerned that this implies that the site is simply waiting for construction to commence, and that the process of permissions and objections are of little consequence to the applicant.

We were assured by the decision of October 10<sup>th</sup> last setting out your decision to refuse planning permission which contravened several policies under the Angus Local Development Plan, and believed that there was a sufficiently strong case against any further development of the area.

Whilst we find the prospect of further development of the area stressful and distressing, we appreciate you including us in the consultation process, and value your consideration of our position.

Yours sincerely,



Peter and Brenda Murphy

Copy: registered mail 4<sup>th</sup> January 2018

## **APPENDIX 4**

### **APPLICANT'S RESPONSE TO FURTHER REPRESENTATIONS**

## ForsythSL

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**From:** Derek Scott <enquiries@derekscottplanning.com>  
**Sent:** 08 January 2018 15:06  
**To:** ForsythSL  
**Subject:** RE: Application for Review - Land Adjacent to Tarriebank Gardens, Arbroath

**Dear Ms. Forsyth**

**Thank you for forwarding a copy of the letter received from Mr. & Mrs Murphy in connection with the above-mentioned review request. Mr. and Mrs Murphy have expressed concern within their letter about the removal of saplings from the application site and have implied that such works were undertaken since the last application was determined.**

**In an attempt to set the record straight I would respectfully point out that no saplings have been removed from the site. The site was cleared of scrub and other vegetation prior to the submission of the planning application and its subsequent refusal by the Appointed Officer. Furthermore the vegetation removed was located on an area of ground that fell outside the application site associated with the original development and was therefore not protected. In short our client was fully entitled to remove all vegetation (including saplings had they so existed) and has not in any way breached planning controls.**

**Please acknowledge receipt at your earliest convenience.**

**Kind Regards**

**Derek Scott**

**From:** ForsythSL [mailto:[ForsythSL@angus.gov.uk](mailto:ForsythSL@angus.gov.uk)]  
**Sent:** 08 January 2018 14:00  
**To:** Derek Scott  
**Subject:** Application for Review - Land Adjacent to Tarriebank Gardens, Arbroath  
**Importance:** High

Dear Derek

**Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013**  
**Application for Review – Erection of a Dwellinghouse at Land Adjacent to Tarriebank Gardens, Tarriebank, Arbroath – Mr A Burnett**  
**Application No 17/00647/PPPL - DMRC-12-17**

I refer to the above review and to previous correspondence, and write to advise you that I have received one further representation from an interested party.

In accordance with the legislation, I am now forwarding a copy of this to you.

You have the right to make comment on the representation and, should you wish to do so, you have 14 days from the date of receipt of this correspondence to make any such representations which should be sent directly to me.

In the meantime, if you have any queries in relation to the progress of the review, please do not hesitate to contact me.

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Legal & Democratic Services | Place Directorate | Angus Council  
| Angus House | Orchardbank Business Park | Forfar | DD8 1AN | T: 01307 476269 | [ForsythSL@angus.gov.uk](mailto:ForsythSL@angus.gov.uk)

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