

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 28 JANUARY 2020

20 WARSLAP AVENUE, ARBROATH

REPORT BY THE DIRECTOR 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 (re-application) for removal of existing garage and extension to dwellinghouse to form garage and ancillary accommodation, application No. 19/00347/FULL, at 20 Warslap Avenue, 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 the 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 to determine the Review without further procedure. If members do not determine the review without further procedure, the Review Committee must determine the manner in which the review is to be conducted. The procedures available in terms of the regulations are: written submissions, hearing sessions or inspection of the land to which the review relates.

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.

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 SUBMISSION ON GROUNDS OF REFUSAL

APPLICATION NUMBER – 19/00347/FULL

APPLICANT- ANGUS PROPERTIES LTD

PROPOSAL & ADDRESS – RE-APPLICATION FOR REMOVAL OF EXISTING GARAGE AND EXTENSION TO DWELLINGHOUSE TO FORM GARAGE AND ANCILLARY ACCOMMODATION AT 20 WARSLAP AVENUE ARBROATH DD11 2DG

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Angus Council

Application Number:	19/00347/FULL
Description of Development:	Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation
Site Address:	20 Warslap Avenue Arbroath DD11 2DG
Grid Ref:	363025 : 740460
Applicant Name:	Angus Properties Ltd

Proposal

The application proposes an extension to the existing house to provide a new double garage, W.C., hall, utility room, kitchen, dining area and living area at ground floor, and a bedroom, dressing room and en-suite bathroom at first floor level. The proposed garage element would be 2-storey in height and would sit forward of the principle elevation of the existing house. The walls of the extension would be finished with white smooth render and grey UPVC cladding while the pitched roof would be finished in tiles to match the existing house. A single storey flat roofed hall would connect the existing house to the extension.

Publicity

The application was subject of normal neighbour notification procedures.

The nature of the proposal did not require the application to be subject of press advertisement and did not require a site notice to be posted.

Planning History

A number of recent planning applications relate to the property: -

15/00791/PPPL - Erection of Dwellinghouse in Garden Ground – withdrawn

17/00773/FULL - Erection of a Dwellinghouse in Garden Ground – withdrawn

19/00016/FULL - Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation – withdrawn

On each occasion the planning service raised concern regarding the compatibility of the proposal with council policy and guidance and the applications were withdrawn prior to determination.

Applicants Case

The applicant has submitted a planning statement in support of the application. That statement is available to view on the council's Public Access website. In summary terms the statement indicates that: -

- The proposal is for ancillary accommodation and would be occupied by a family member. It is not a proposal for a new house and the applicants would be prepared to

accept a planning condition preventing occupation of the extension as a separate planning unit;

- The design, scale, massing etc of the proposed building would not result in any adverse impact;
- The proposed development represents a highly sustainable form of development and would not compromise the objectives of the Local Development Plan policies and householder advice notes.

Consultations

Community Council – no response

Angus Council – Roads – no objection

Scottish Water – no objection but has indicated that the development would affect its infrastructure located within the site.

Representations

22 letters of representation were received. 12 offered support for the proposal while 9 raised objection. One letter indicated it did not offer support or objection but concluded by indicating that the proposal would represent a blot on the aspect of the otherwise attractive street.

Support

- Proposal is sympathetic to neighbouring property and should not unacceptably affect amenity
- No adverse visual impact and design is acceptable for the area
- Proposal is compatible with council policy

Objection

- Unacceptable adverse impact on amenity of neighbouring property
- Proposal is too large and represents over-development of the plot
- Scale, design and materials of building are inappropriate
- Unacceptable impact on road safety
- Proposal is contrary to council policy
- Previous proposals for a house have been resisted and current proposal is for a new house

Development Plan Policies

Angus Local Development Plan

Policy DS3: Design Quality

Policy DS4: Amenity

Policy TC4: Householder / Domestic Development

TAYplan Strategic Development Plan

The proposal is not of strategic significance and the policies of TAYplan are not referenced in this report.

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

Assessment

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

Policy TC4: of the ALDP relates to proposals for house and flat alterations/ extensions and development within the curtilage of houses and flats. Development will be supported where the siting, design, scale or massing of the proposal do not:

- (1) adversely affect the residential amenity enjoyed by the dwelling and adjoining households,
- (2) detrimentally impact on the character and appearance of the dwelling, site and surrounding area;
- (3) result in overdevelopment of the site or a loss of garden ground, parking or bin storage.

Policy TC4 indicates that further guidance on these matters is set out in the Householder Development Planning Advice Note (PAN).

In relation to impact on the amenity of neighbours it is relevant to have regard to Policy DS4. That policy indicates that development will not be permitted where there is an unacceptable adverse impact on the surrounding area or amenity. It indicates that the Council will consider the impact of development on residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing. The council's Householder Development PAN identifies a number of criteria that will be used to assess the impact of a proposed development on the amenity of neighbours.

The proposed extension provides for the erection of a 2-storey element which, at its closest, would be around 2m from the boundary with the neighbouring single storey property to the east. The elevation facing the neighbouring property would contain windows at ground and first floor level. The 2-storey extension would measure around 5.5m to eaves height and 8m to the ridge of its pitched roof and would be around 7m from a habitable room window in the house to the east. The Householder Development PAN requires a minimum separation distance of 10m between the window of a habitable room and a blank wall; it requires a minimum of 12m between opposing habitable room windows. The 7m separation provided by this proposal does not meet the minimum separation distances required by the PAN. In addition, the PAN provides guidance on calculating the impact of a house extension on daylight (a 25 degree method) and on sunlight (a 45 degree method) of neighbouring property. The proposal fails to comply with both calculation methods; a significant element of the 2-storey extension would be located above both the 25 and 45 degree lines.

The single storey element of the proposed extension would have little impact on the amenity of neighbours but the 2-storey element is high and close to the boundary with the neighbouring house to the east. The 2-storey element fails to comply with Householder Development PAN by virtue of its height and proximity to the neighbouring dwelling and its resultant impact on the amenity enjoyed by the occupants of that property. The failure to comply with the basic requirements of the PAN indicate that the proposal would give rise to significant impacts on the amenity of occupants of neighbouring property and in this respect it is contrary to those elements of policies DS4 and TC4 that deal with amenity.

In terms of the impact of the extension on the character and appearance of the dwelling, site and surrounding area it is relevant to have regard to policy DS3 which deals with design quality. It indicates that 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. The council's Householder

Development PAN identifies a number of criteria that will be used to assess the acceptability of a house extension in terms of design.

The PAN states that other than porches and bay windows, any other extension which would project forward of the principal elevation of the original house or building line in a street will generally not be acceptable. It also indicates that extensions should respect and complement the character and scale of the existing residential property and surrounding area; be developed behind the building line of the existing residential property to provide a clear definition between the newly designed side extension and the existing residential property; and be subordinate in scale and floor area to the existing residential property.

In this case the proposed extension would project around 7m forward of the principal elevation of the house. While it would sit behind the front elevation of the neighbouring single storey property to the east it would be 2-storey in height and around 2.5m higher than that house. It would be evident and prominent in views along Warslap Ave and from Monymusk Road. The extension would, by virtue of its design and location, appear as a separate and distinct building in the streetscene. It would not appear as subordinate to the main house and the proposed roof configuration would relate poorly to the existing building, particularly when viewed from the west. The 2-storey element of the extension would have a double garage at ground floor level with a large garage door facing the street. That garage door and associated window configuration on the west elevation would make this element of the extension appear particularly utilitarian. Garages of 2-storey height projecting forward from the principal elevation of houses is not a characteristic feature of Warslap Avenue and is not one that would add positively to its character or appearance.

The single storey rear extension does not impact significantly on the streetscene and its design is broadly acceptable. However, the proposed 2-storey front extension projects forward of the principal elevation of the house. The proposed design is such that the extension does not integrate well with the roof structure and appearance of the existing dwelling. The extension would not complement the existing building by virtue of its 2-storey height, design and its prominent location between the principal elevation and the street. The overall extension as proposed would have a footprint that is larger than the existing house. The proposal is not consistent with the council's Householder Development PAN for those reasons. The proposed extension would detrimentally impact on the character and appearance of the dwelling and the surrounding area and is contrary to the design aspect of policy TC4.

The proposal is contrary to the ALDP for the reasons set out above.

In terms of material considerations a statement has been submitted in support of the application and it asserts that the proposal complies with relevant development plan policy and with relevant planning advice note guidance. For the reasons discussed above and set out below it is evident that the proposal does not comply with council policy or guidance.

A number of letters have been submitted in support of the proposal. They suggest that the design is acceptable; impacts on amenity of neighbours are not significant; and that the proposal complies with council policy. Again, for the reasons discussed above and set out below it is evident that the proposal does not comply with council policy or guidance. It is noted that the letters of support are generally from households that do not live in the proximity of the application site and this reduces the weight attributable to them.

Letters submitted in objection to the application support the conclusions reached in this report that the proposal is of inappropriate design and would adversely affect the amenity of occupants of neighbouring property. It is noted that the letters of objection are generally from households that live in the proximity of the application site and this increases the weight attributable to them.

The proposed development would be unlikely to give rise to significant issues in terms of road traffic safety and the Roads Service has offered no objection.

The site has a reasonably extensive recent planning history. That includes two applications that proposed the erection of a new house within the curtilage of the existing property. The most recent of those applications (2017) proposed a new house in a similar location and with a similar footprint to the current proposal. Both applications were considered to be unacceptable in terms of council policy and design guidance but were withdrawn prior to their determination. A more recent planning application proposed a 2-storey flat roofed extension to the side of the house. Again that application was withdrawn prior to determination.

A number of parties have questioned whether this current proposal represents a new house or ancillary accommodation. The test of whether a proposal constitutes a new house or ancillary accommodation is one of fact and degree that requires consideration of the particular circumstances of a proposal. In this case the proposal is unacceptable for reasons related to its design and associated impact on the amenity of occupants of neighbouring property and it is unnecessary to consider the nature of accommodation proposed.

In conclusion the proposal is not compatible with council policy or guidance by virtue of its design and associated impacts on the amenity of occupants of neighbouring property. The application has attracted letters both in support and in objection. The letters of support do not alter the conclusion that the proposal is contrary to development plan policy while the letters of objection reinforce that conclusion. The proposal is contrary to the development plan and there are no material considerations that justify approval of the application.

Human Rights Implications

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

Equalities Implications

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

Decision

The application is Refused

Reason(s) for Decision:

1. The proposal is contrary to policy TC4 of the Angus Local Development Plan and is not compatible with the council's planning advice note on householder development as the design would have a detrimental impact on the character and appearance of the dwelling and the surrounding area.

2. The proposal is contrary to policies DS4 and TC4 of the Angus Local Development Plan as it would result in significant adverse impacts on the amenity of occupants of neighbouring property when considered in the context of the council's planning advice note on householder development.

Case Officer: Pauline Chalmers

Date: 22 August 2019

Appendix 1 - Development Plan Policies

Angus Local Development Plan 2016

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:

- **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 set out in 'Designing Streets' are addressed.
- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **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 TC4: Householder / Domestic Development

Proposals for householder development (including alterations/extensions to houses and flats, development within the curtilage of houses and flats, means of enclosure, satellite antenna and domestic scale microgeneration) will be supported where the siting, design, scale or massing of the proposal, does not:

- adversely affect the residential amenity enjoyed by the house or surrounding domestic properties including, in the case of microgeneration, through noise or shadow flicker;
- detrimentally affect the character and/or appearance of the building, site or surrounding area; and
- result in the overdevelopment of the plot or a loss of garden ground, parking or bin storage.

Further guidance on householder development will be set out in a Householder Development Planning Advice Note.

17th May 2019

Angus Council
County Buildings Market Street
Forfar.
DD8 3LG



Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk

Dear Local Planner

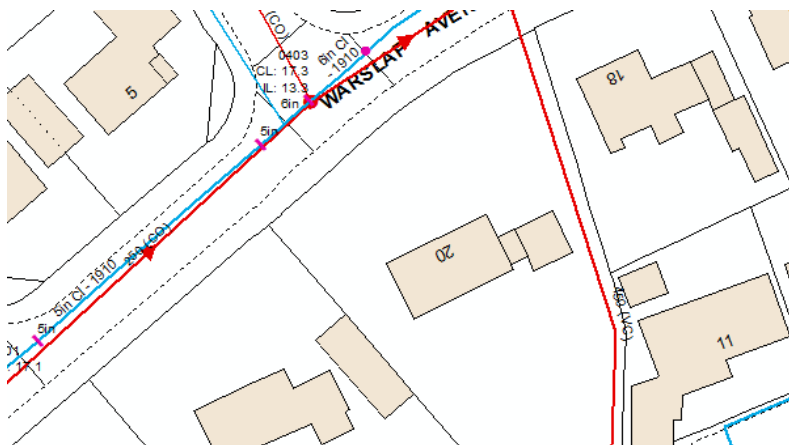
DD11 Arbroath Warslap Avenue 20
PLANNING APPLICATION NUMBER: 19/00347/FULL
OUR REFERENCE: 777148
PROPOSAL: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Please quote our reference in all future correspondence

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

Infrastructure within boundary

According to our records, the development proposals impact on existing Scottish Water assets.



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The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team directly at service.relocation@scottishwater.co.uk.

The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

General Notes:

For all extensions that increase the hard standing area within the property boundary, you must look to limit an increase to your existing discharge rate and volume. Where possible we recommend that you consider alternative rainwater options. All reasonable attempts should be made to limit the flow.

No new connections will be permitted to the public infrastructure. The additional surface water will discharge to the existing private pipework within the site boundary.

Scottish Water Disclaimer

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at planningconsultations@scottishwater.co.uk

Yours sincerely

Angela Allison

Angela.Allison@scottishwater.co.uk

ANGUS COUNCIL

PLACE PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

19/00347/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

20	05	19
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**PLEASE DO NOT TAKE AWAY THE LAST SET OF PLANS WHERE POSSIBLE COPIES
WILL BE PROVIDED ON REQUEST**

ELECTRONIC SUBMISSION DRAWINGS TO BE VIEWED VIA IDOX

Letter received from John Minton, 1 Warslap Avenue, Arbroath DD11 2DQ received on 29 May 2019 reads as follows:-

PLANNING APPLICATION REF 19/00347/FULL - Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

"Dear Sir/Madam

The proposed extension at 20 Warslap Avenue looks to be more like an additional house construction than an extension.

Since the sheer size of this building could significantly affect the natural light on the south of my property, I wish to oppose this proposal".

Yours faithfully

John Minton

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr james obrien

Address: 18 warslap ave arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Angus Properties have sought the advice of a planning consultant and we would like to address her opinion.

It is proposed that the 1st floor windows on the east elevation be obscure glazed to ensure the privacy of the adjacent property but it is easily possible to reglaze with clear glass and, would the windows be sealed closed in the event of planning being granted?

We treat the opinion, that the proposed development would not have a negative impact upon the amenity of adjacent properties with incredulity. The proposed development extends to the north and to the south and east closer to the boundary and triples the height of the existing garage and thereby would block afternoon sunlight to the garden of no18.

Proposal DS4; is of particular relevance, the proposed extension would not respect residential amenity, and would result in loss of privacy, outlook, sunlight, daylight and would overshadow 18 Warslap Avenue.

The 2 storey element would extend south more than half way adjacent to the west wall of no18.

The existing property at 20 Warslap is a substantial 3-4 bedroom house which has historically been a family home. [REDACTED]

[REDACTED] This is an application for another dwelling of similar dimensions to the original, of which the future is to be ascertained, and is totally out of character with existing dwellings in the vicinity.

The original planners have sighted 20 Warslap sensitively in a substantial curtilage at an angle with the road to allow the afternoon sun to beam light onto the adjacent much smaller garden of no 18 Warslap ave. This benefit would be completely lost

no 18 would be dominated and constitutes overdevelopment of the site and could set a precedent for further development to other properties in Warslap Avenue.

To sum up the planning consultant has failed to prove that this development will not negatively

affect adjacent property

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Derek Duncan

Address: 7 Warslap Avenue, Arbroath DD11 2DG

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:1. Size of proposed development is too big. It is much larger than existing dwelling.

2. Proposed cladding is out of character with neighbouring properties and would look industrial rather than residential.

3. Potential for this development to end up as apartments due to design layout?

4. Development looks like an additional property, not an extension.

5. Proposed development will block direct neighbouring properties sunlight.

6. Can guarantees be provided in writing that this proposed development cannot be converted to apartments in future?

12b Summerside Place
Edinburgh
EH6 4NZ

Ms. Pauline Chalmers
Case Officer
Planning Service
Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

3rd June 2019

Dear Ms. Chalmers,

Planning application number 19/00347/FULL - 20 Warslap Avenue Arbroath DD11 2DG

I write as an individual with an interest in a property close to the application site in Warslap Avenue, Arbroath and wish to object to the above planning application.

1. The proposal is for a granny-flat extension to the existing property however, by nature of its positioning, design and layout, one could reasonably conclude that it is actually a link-detached, self-contained dwellinghouse. Therefore, it should be subject to all the relevant legislation contained within Angus Council's Local Development Plan and all associated guidance documentation relating to new-build residential developments upon green-field sites.
2. If permitted, the development could encourage and legitimise similar applications in the future. It will undoubtedly result in over-development, poor spatial layout, reduction in open space, increase in noise, neighbourly discord and a wholly unacceptable adverse impact upon the residential amenity within the surrounding neighbourhood for current and future residents.
3. The proposed positioning, design and material composition of the building bears no relation to any surrounding houses and due to its scale and mass, will overwhelm and overshadow neighbouring properties, particularly number 18 Warslap Avenue.
4. The applicant appears to rely upon a judicial opinion of the English High Court in support of their application however, that case appears to represent an entirely different set of circumstances and legal jurisdiction.
5. The applicant's claims of sustainability and resource efficiency are without merit in the context of the presented application.

Thank you for your attention to the above.

Yours sincerely,

Mr. A. Henderson

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Bryan Morris

Address: 16 Warslap Avenue Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Planning application number 19/00347/FULL - 20 Warslap Avenue Arbroath DD11 2DG

I write to object to the proposed development at 20 Warslap Avenue.

The proposed development is out of character with this area and is incompatible in terms of its size and positioning with other adjacent properties, and will cause a somewhat crowded appearance to the street.

The east elevation of the proposed dwelling will substantially overlook and dominate the property at number 18 Warslap Avenue with the resultant loss of light and privacy. It will also overlook our own property and rear garden at number 16 Warslap Avenue with the resultant loss of privacy.

The application describes the development as an "extension" to the current property, however, the application is clearly for a separate, self-contained unshared dwellinghouse.

A development such as this would also lead to an increase in vehicular traffic using the two properties, which is directly opposite an already very busy junction, regularly used by local bus services and learner drivers'.

The extremely close positioning of the proposed development to neighbouring properties would have a negative impact in terms of privacy and amenity, and would create a dangerous precedent for similar developments of this kind.

11 Warslap Avenue
Arbroath
DD11 2DG

Ms. Pauline Chalmers
Case Officer
Planning Services
Angus Council
Orchardbank Business Park
Forfar
DD8 1AN

4th June 2019

Dear Ms. Chalmers,

19/00347/FULL - Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation - 20 Warslap Avenue Arbroath DD11 2DG

We write in connection with the above planning application and wish to lodge our objection to it.

The applicant alludes to the development being a 'granny flat extension' however, given the fact that it would include a kitchen, utility room, stated space for separate outdoor bin storage, a private terrace and an internal door connecting exclusively from the garage, any reasonable person would unambiguously conclude that the completed building would be a two-storey dwellinghouse with a subordinated integral garage. Simply adding a communal link structure between the two properties does not alter the fact that with its proposed internal layout and access, the development constitutes a self-contained unshared dwelling. Indeed, many contemporary unshared dwellinghouses have shared driveways, open plan gardens and communal gated walkways linking the front and rear external spaces. The Census Act 1920 c.41 (Regnal. 10 & 11 Geo. 5 c.) directs that;

'An unshared dwelling is defined as a self-contained unit of accommodation of one household space. A self-contained unit of accommodation means that all rooms, including the kitchen, bathroom and toilet are behind a door that only that household can use.'

The applicant refers to certain case law in order to support their position that the 'extension' does not constitute a separate unshared dwellinghouse or planning unit however, that judicial opinion is irrelevant for reasons detailed elsewhere in this correspondence.

Due to the proposed location of the dwellinghouse and with the demolition of an existing in-use link-detached garage building in order to make way for a substantially larger two-storey building, the application does not constitute windfall, infill or backland development. The proposed site is neither vacant, underused or brownfield and therefore does not meet the requirements of the extant Angus Local Development Plan (LDP). Furthermore, the proposed site is situated in an area of the town which falls in close proximity to the curtilage of Hospitalfield House Estate (LDP Site A14) where, according to the LDP, there is a presumption against significant change. However, current and future provision is met by LDP site A1, which provides a wide range of new homes but located within an area

specifically identified for residential development. Site A2 will add to this significantly, with a total of 350 houses being constructed in the western part of Arbroath between now and 2026.

As an 'extension,' the proposed development does not respect three out of the four guiding principles contained within the supplementary householder development planning advice note (side extensions) of the LDP. It will be discordant with other houses in the surrounding area and will introduce a cramped and over-bearing appearance to the streetscape which could potentially substantiate similar applications in the future. With its inappropriate positioning, orientation, scale, massing and choice of materials, the proposed building's visual impact will be that of a modular-construction use-class 6 or 7 premises. This is entirely and uniquely inappropriate within the context of the character of the established residential environment. The prominent ridge of the proposed forward structure is incongruous with adjacent properties and serves only to impose its mass beyond the frontal elevation of the existing house and overwhelm its neighbours. Covering c. 60% of the frontal elevation of the existing property with industrial cladding in an attempt to blend-in with the proposed 'extension,' will only amplify the resultant inaesthetic manifestation.

The applicant's photograph of the site does not adequately portray the full width of the proposed building's projection and proximity to the north-eastern boundary with its neighbour at number 18 Warslap Avenue. The rear garden of that particular property will become significantly overshadowed by the proposed structure from early-afternoon in summer; a time when garden use is most prevalent. There would also be an unacceptable reduction of the daylight factor within its south-westerly facing rooms, due to the built mass negatively affecting both the sky and externally reflected components. The applicant goes to great lengths to assert that no over-shadowing or reduction in light would occur but fails to prove that it will not. They also assert that no loss of privacy would occur but presumably, the opaque fenestration would be openable, along with the kitchen window and utility room door. They also fail to address the inevitable discordance created by increased vehicle movement, noise or cooking odours arising as a result of its greater proximity to its neighbours.

It would appear that the overall footprint of the proposed structure, including the covered link section, is in excess of that of the existing property at number 20 and as an 'extension,' is not subordinate in scale and function to the main dwellinghouse. Were the proposed building to be regarded as infill development, then it would not respect certain principles contained within the LDP's 'design and placemaking' supplementary guidance document (2018), where it is stated that infill development proposals should:

'[I]ntegrate with the surrounding development pattern. Backland or tandem development will only be acceptable where it is characteristic of the area and where it does not disrupt the established development pattern or detract from the established quality of an area.'

The proposed development satisfies none of the above tenets.

If permitted, this development could lead to similar applications in the immediate locale, culminating in unacceptable over-development and substantial loss of amenity for current and future residents of the surrounding community, in terms similar to points a - e below. As presented, it does not conform to policies TC4 and DS4 of the LDP. The specific issue of piecemeal new-build development along the south-western side of Warslap Avenue was addressed by Angus Council and adjudicated upon by the Scottish Secretary of State in 1999 (Angus Council planning reference: 01/98/0438 and report references: 510/99 and 756/98.) In summary, that outline planning application appeal was refused as it would:

- a. *Fail to improve the environmental quality as required by local plan policies.*
- b. *Be detrimental to the residential amenity of both the proposed and donor property in terms of noise, vehicle movement and general proximity, ultimately leading to social disharmony.*
- c. *Create a precedent, culminating in unacceptable development of the wider area.*
- d. *Be located within an area where, in accordance with local planning policy, there is a presumption against significant change.*
- e. *Have an overall detrimental impact upon the residential amenity, environmental quality and established character of the wider residential area.*

The applicant references purportedly analogous planning applications in relation to similar ‘granny flat extensions’ approved by Angus Council and urges the council to make a ‘consistent’ decision. However, there is no concept of binding precedent in Scottish planning law and this application must be considered sui generis.

The applicant makes copious reference to case law in support of their application. Uttlesford District Council v Secretary of State et al. is irrelevant in these matters as it relates to the change of use of a previously consented, constructed then subsequently converted and occupied domestic garage for the evidential exclusive benefit of an elderly and infirm close relative. It does not relate to the demolition of an existing incidental structure and replacement with a new ancillary structure, re-positioned and several times the size of the one removed. However, Gravesham Borough Council v Secretary of State for the Environment (1982) P&CR 142 details the relevant standard required for a building to be considered a dwellinghouse and separate planning unit in terms of provision of facilities, frequency and type of occupation. No doubt the applicant would offer their case law if, for example, they felt compelled to convert the garage space within their ‘extension’ to two en-suite bedrooms at some point in the future. In the event that one was able to rely upon judicial opinions made within countries other than the applicable relevant jurisdiction, then one could expect that similar sources of legislation, jurisdiction and precedent should be given equal weighting e.g. the 2014 planning legislation of the British Overseas Territory of the Turks & Caicos Islands. In any event, the Queen’s Bench Division of the High Court of Justice has no bearing in matters devolved to the Scottish Parliament. Lord Reed, deputy president of the Supreme Court (which has certain reserved judicial powers,) whilst discussing the role of the courts in Scotland’s devolved settlement and referencing his colleague Lord Hope, stated as recently as February 2019;

“[E]xcept to the extent that the courts were authorised to do so by section 29 of the Scotland Act, or required to do so in order to protect the fundamental rights or rule of law, it would be wrong for the judges to substitute their view for the considered judgement of a democratically elected legislature.”

We have lived here since 1967 and value the quality of life afforded to us. We have no issue with our neighbours improving or sensitively extending their homes and welcome the younger generation of new neighbours who have chosen to do so. The applicant goes to considerable length in order to attempt to justify their right to build a ‘granny flat.’ No reasonable person would dispute the right of any householder to make such an application but applicants have to accept that it must be assessed in accordance with only the relevant legislation and with due regard to the democratic planning process and everything that entails, including neighbour consultation. We would draw attention to a development only two doors down from number 20, where number 24 Warslap Avenue was sensitively extended with a two-storey full-depth extension whilst generating a minimal additional footprint via infill between the existing double garage and house. Number 30 Warslap Avenue was also significantly extended a number of years ago with the addition of separate two-storey extensions to the front and rear of the property with no resultant overlooking or overshadowing of neighbouring properties, or any adverse imposition upon the streetscape. Indeed, the front and rear gables of these extensions are

appropriate within the context of the surrounding built environment and these developments serve to amplify the incongruity conveyed within the applicant's design proposal.

The applicant places considerable emphasis on their proposed development being 'highly sustainable;' a commendable and emotive concept. An example of highly sustainable development would be taking a semi-derelict 200-year-old local landmark building in the centre of a town e.g. a former jute mill, sensitively re-developing it in the local vernacular in order to provide affordable housing with open community space, ready access to the footpath network and public transport links, with a BREEAM rating of at least 70%. The applicant states that no trees would be removed as part of the construction process however, the mature tree in the front garden immediately adjacent to the proposed site would undoubtedly suffer damage to its root structure. Furthermore, a significant quantity of mature shrubs would require to be removed or face significant damage in order to accommodate the build. Obviously, the applicant would be fully entitled to remove these however, taking all factors into consideration, we can find no evidence at all to support the applicant's assertion that the proposed development is technically 'highly sustainable.' We have also reviewed the application in the context of its stated 'resource efficiency' and can find no evidence whatsoever of materials optimisation, waste reduction, use of reclaimed or recycled products or any circularity of economic process to support the applicant's assertion.

All of the properties in Warslap Avenue which were constructed by Wm. Brand & Son Ltd. between 1967 and 1975 (numbers 20-30 and 9-15) were built upon substantial feus. Regardless of the individual size of these specific plots, the intention was to provide carefully orientated detached housing with substantial garden ground in order to maintain sufficient distance between the properties, thereby ensuring that neighbours would be assured their ongoing privacy and quiet enjoyment. We can personally attest to the success of this approach over the past 52 years however, the destruction of these intrinsic qualities through the densification of this uniquely semi-urban environment within the town will certainly not enhance the lives of its current or future residents.

Notwithstanding the foregoing, we would request that in order to prevent the acquisition of certain permitted development rights, a section 75 continuing obligation is attached to any assent of this application. As the applicant has indicated that the development is to be a 'granny flat' we would request that it remains part of the same planning unit, ancillary to and subsumed with the donor property, is occupied by a dependent member of the applicant's family and that the main residence and annexe may not be divided in order that either may be sold on separately or subject to long or short term rental.

Thank you for your attention to the above and we look forward to a satisfactory outcome.

Yours sincerely,

I M & N C Henderson

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr James Stewart

Address: 22 Warslap Avenue ARBROATH

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I would like to object against the proposed new residential development to replace the existing garage at 20 Warslap Avenue .

The planned residential development due to its substantial size both in terms of floor space but also in terms of the considerable increase in height with the new structure approximately three times the height of the existing garage to the front and it would appear from the plans in excess of double the height to the rear. Clearly this will have a significant impact on 18 and 16 Warslap Avenue but also the proposal will also impact properties neighbouring in Monkbarns Avenue .The roof pitch proposed is markedly steeper than the neighbouring two bungalows to the rear or the neighbouring property at number 18 ,which further differentiates it from the surrounding environment and it would appear for no material benefit unless there are plans to further develop into these substantial roof voids following the initial works .

In terms of Angus Councils Planning Department web site it details what may be considered to be competent grounds for objecting to a planning application .These include.

1. Impact on adjacent property and the surrounding area

This proposed residential unit would be extremely detrimental to 18 Warslap Ave in terms of privacy and light and would negatively impact those properties in the surrounding area for both current and future occupiers due to additional vehicular use and the size and dominance of the

proposed build

2. Noise ,nuisance and smell

With full residential facilities within the property and the re siting and enlargement of the build this may impact neighbours substantially .

3 Privacy and amenity

Substantial impact on privacy and amenity of number 18 and others to lesser degree

4 Visual impact

In terms of design,height, size and external appearance the residential development is incompatible with its environment

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mrs M Morris

Address: 16 Warslap Avenue Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Planning application number 19/00347/FULL - 20 Warslap Avenue Arbroath DD11 2DG

I am writing to record my objection to the proposed development at 20 Warslap Avenue.

The proposed development is completely out of character with this area and is incompatible in terms of its size and positioning with the other properties, and will cause an overcrowded appearance to the street.

Despite the many comments about this being a granny flat extension, it is clearly creating a separate larger property, the scale of which cannot reasonably be seen as an extension. The east elevation of the proposed new building will overlook and dominate number 18 Warslap Avenue with the resultant loss of light and privacy. It will also overlook our own property and rear garden at number 16 Warslap Avenue with the resultant loss of privacy.

The planning statement mentions in section 6.1 that in accordance with the Council's own guidelines a development must not adversely result in overdevelopment of the plot or loss of garden ground; detrimentally affect the character and/or appearance of the building, site or surrounding area; adversely affect the residential amenity - all of these statements would appear to be overlooked by the proposed new development.

The proposed development would lead to an increase in traffic using the two properties, which is opposite a very busy junction, regularly used by local bus services and learner drivers'.

The conclusion of the planning statement also mentions in section 8.0 that the same family use of

AC11

the development can be controlled via a planning condition; should this development go ahead this would need to be an unconditional agreement to make sure that the 'extension' always stays as part of number 20 Warslap Avenue and cannot be altered, rented or sold separately at a later stage.

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Alan Scott

Address: Not Available

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dear Sir/Madam,

I have viewed the above application for planning permission at 20 Warslap Avenue, and find no basis for objections to be upheld.

This building in no shape or form would block sunlight to numbers 16 or 18 Warslap Avenue.

I fully support this application for planning permission to be passed.

Yours Sincerley

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Allan Paris

Address: 45 Keptie Road Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I would like to add my support for this application... I have viewed the design drawings and I feel that it is well thought out, well designed, works really well with the existing property, will not affect adjoining properties in any detrimental way...in fact, I believe that it will be an exciting enhancement to the existing property and the area. The Architects have created a design which is sympathetic, thoughtful and innovative.

I would therefore like to make it known that I lend my support to this application for the extension.

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Andrew McFarlane

Address: Russell Street Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dear Planning department,

In regards to the application for planning permission at 20 Warslap Avenue, i have reviewed the application in question and i see no reason for this to be denied and find no basis for objections to be upheld.

The new proposed extension is in keeping with existing properties within the area, giving the position and design of the proposed extension i see no reason why it would block natural sunlight to any property within the vicinity .

I fully support this application for planning permission to be passed.

Yours Sincerley

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Bill Adam

Address: 4 Shore Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I can see no valid reason for any objection to this development, It is replacing like for like and does not encroach on any other property When completed it will have no visual impact from the street and will be sympathetic to neighbouring properties.

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Ms Christine Gontarek

Address: 51 brothock way DD114BH

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: No reason in my opinion why this can't go ahead!

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr ian white

Address: 30 dishlandtown st arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dear Angus Council Planning

With regards to the planning application for an extension to the property I see that the property will not affect the natural light to the neighbours gardens at No18 or No 16 or overlook the properties as windows will be of obscure glass!

The objection from the man at No1 Mr Minton is clearly nonsense as he has a large tree directly in front of his house in line with the new extension across the road. I have been following these applications for the property and it seems wherever the extension is sited the same objections from the same people are given even when the extension could not be seen from the main road. please allow these people to build an extension that would suite their family lifestyle making larger bedrooms with all the modern facilities for their later years in life!

I beleive all the objectors bear personal preudice to the owners of this property as all the letters are taken from the same page?

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Miss Jackie Gardiner

Address: 45 Keptie Road Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am writing this in support of the application for garage and ancillary accommodation at 20 Warslap Avenue. I am pleased to recognise quality design from the architect and the fact that this will be an enhancement to the area without detriment to surrounding properties.

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Malcolm Booth

Address: 7B Salisbury Place Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: With regards to the above application, having reviewed the plans online and had I close look at the proposed site I see no reason for this development not being granted. Having read all the letters of objection with in my view nothing constructive to say and having been in the same situation a few years ago with my current residence in Salisbury Place I can totally sympathise with Mr Wilson.

I see a number of similarities with the objections that I experienced prior to my application being granted and to be honest most of them are irrelevant and very much of the "Don't like change mentality".

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mrs Marjorie Johnson

Address: 2 Keptie Mews Keptie Road Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: In support of the proposed extension at 20 Warslap Avenue Arbroath.

In this area the houses/ homes are all of different shapes and sizes and the proposed change to this address will not be out of place in that respect.

It will be reasonably proportional and sympathetic to the existing building with no intrusion in respect to adjacent properties. The area / space between houses in this Street is much more than the norm!

The area is quiet & not unnecessarily busy, most homes have driveways and cars are seldom seen parked on the road.

I trust you will look on this application favourably.

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Norman Campbell

Address: 21 Monymusk Road Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: These plans appear to be in keeping with surrounding area.

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Ronald Doyle

Address: 34 Bruce Road Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dear Angus Council Planning Dept

I wish to support the application for an extension to 24 Warslap Avenue Arbroath as it does not contravene any of the local planning laws and consider the objections to be personal rather than actual planning objections. This building would not block natural light to any of the surrounding properties! This would also not overlook the property at No 18 as the windows will have obscure glass.

Regards Mr R Doyle

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr William Mckay

Address: 53 Annfield Drive Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have no objections to this at all and personally like the design of this. It will help to modernise the area

105, Keptie Road
Arbroath,
Angus DD11 3EW.
7 June 2019.

Application Reference 19/00347/FULL
20 WRSLAP Avenue Arbroath DD11 2DG.
Re-application for removal of existing garage and extension to dwelling house to form garage and ancillary accommodation.
Case Officer – Pauline Chalmers.

Dear Ms Chalmers,

As a private citizen, I tend to view Planning applications with a degree of interest, having had a previous problem with planning some years ago.

As an interested observer, the following points come to mind.

- 1) Two previous applications to build a dwelling house in the existing premises have been refused.
- 2) The proposed application for an “extension” comprises what is virtually another dwelling, currently to be attached to a 3 / 4 bed villa, and only occupied by the applicant and his wife, which seems rather unusual.
- 3) The notes of objection and support are also interesting. There are 7 notes of objection all from residents of Warslap Avenue which is understandable.
- 4) There are eleven notes of support, none of these are from the immediate neighbourhood, but from all over Arbroath, which I find difficult to understand. How is it possible for a person living on the opposite end of the town, to support, a totally remote planning application, of which they have no relevance? I feel there is an element of nepotism creeping into this application. I also feel this may be a “back door” tactic to achieve the original application for a separate dwelling house on the original plan.
- 5) On a practical side, Warslap Avenue is an attractive street, with a mixture of bungalows and prestigious villas. The proposed “extension” I feel, would dominate the street and detract from the overall aspect of the area.
- 6) I also feel a degree of sympathy for the resident of no. 18 whose garden and house would be overshadowed by this application.

As an individual, who I feel has no right to comment either way, not being a neighbour, I can neither support or object to the application. If I were a neighbour I would definitely register my objection to the proposal of this massive blot on the aspect of this otherwise attractive street, and can only re-iterate, that, to take cognisance of support from those who will never be affected by this construction, is, to my mind, nothing short of farcical, and should not be permitted.

Yours Sincerely ,

D. M. Clark

Comments for Planning Application 19/00347/FULL

Application Summary

Application Number: 19/00347/FULL

Address: 20 Warslap Avenue Arbroath DD11 2DG

Proposal: Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation

Case Officer: Pauline Chalmers

Customer Details

Name: Mr gary petrie

Address: 8 Parkview Gardens Arbroath

Comment Details

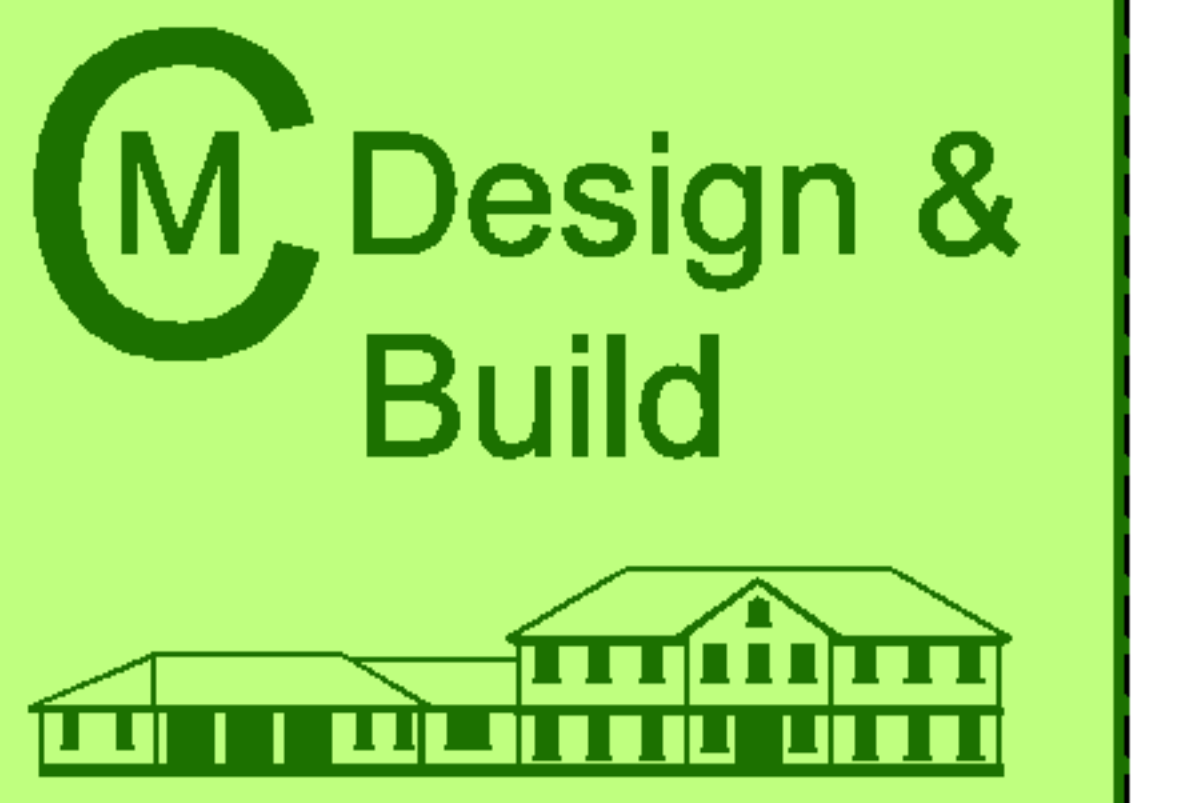
Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:On viewing the plans for this proposed development the scale and design of this project appears completely out of character with the area .It would also appear that the proposal is to create an additional dwelling to supplement an already substantial property and certainly would appear over development which would negatively effect neighbouring units .

Refused

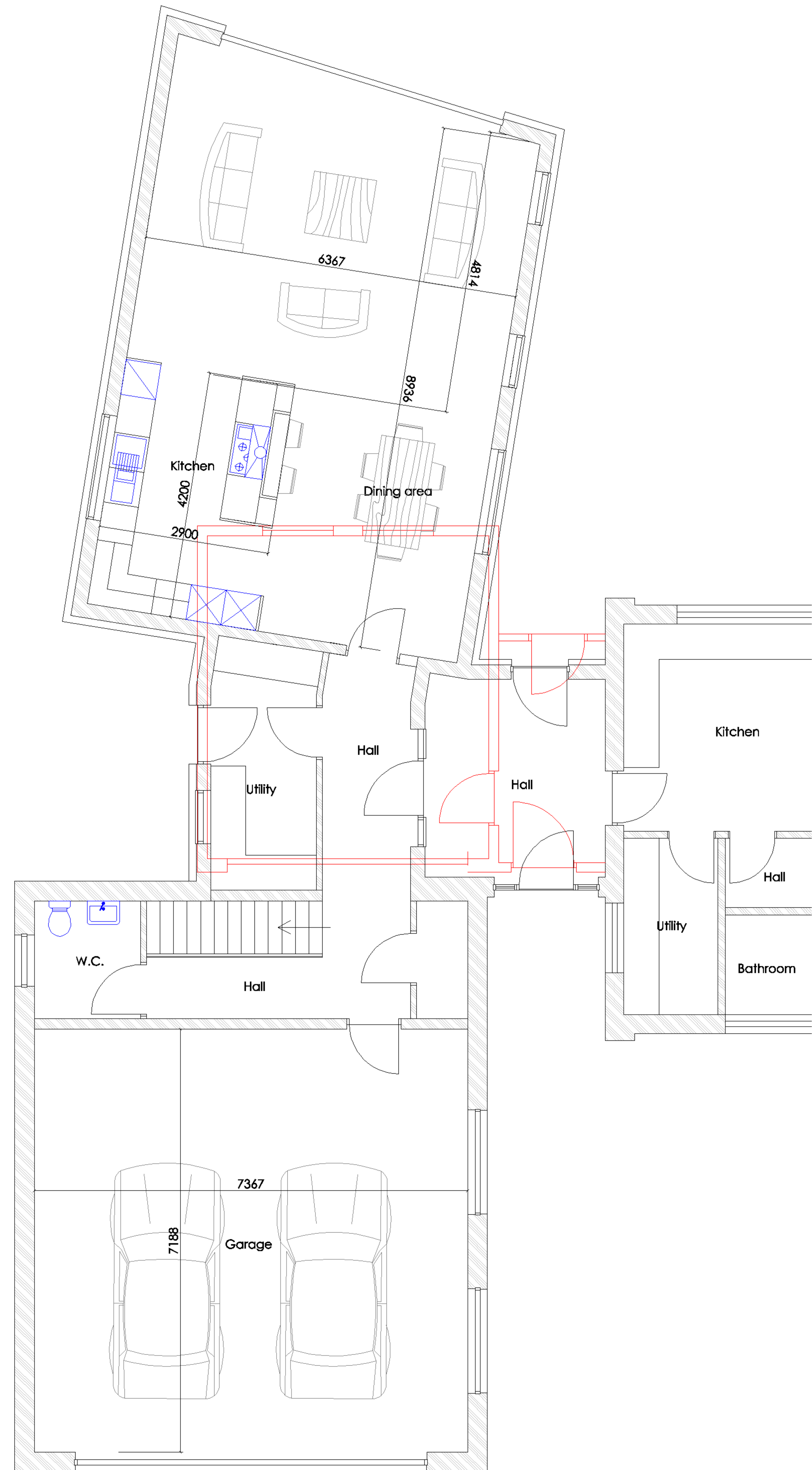


33 Double Dykes
Brechin
DD9 6LD

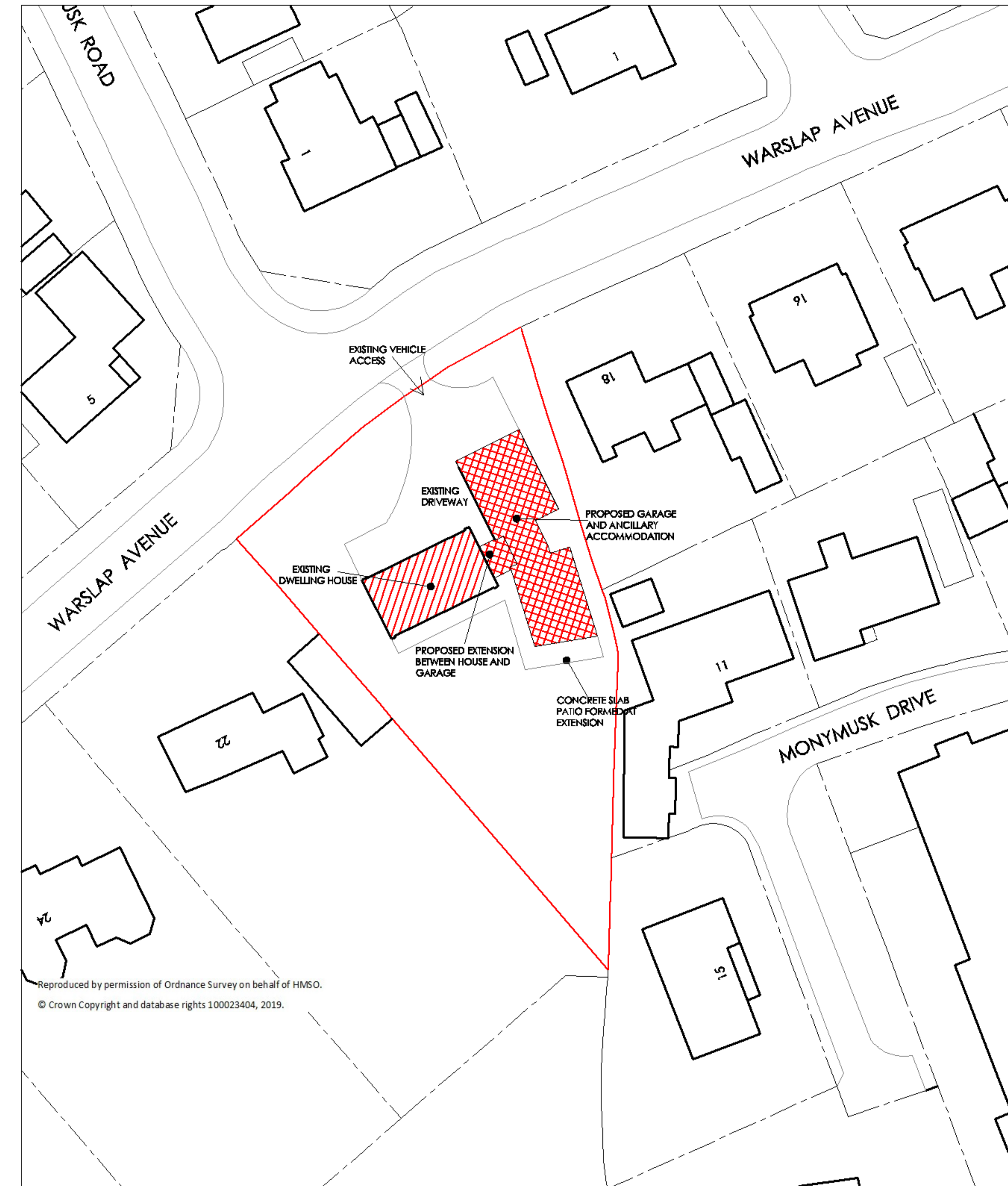
Tel :- 01241 437166
Mobile :- 07752 046136

E-mail :-
cal170168@gmail.com

TITLE
Proposed Extension to
form Replacement
Garage and Ancillary
Accommodation at
20 Warslap Avenue
Arbroath
CLIENT
Mr & Mrs J Wilson
DESCRIPTION
Floor, Site, Location Plans
DRAWING TYPE
Working Drawing 1am4
DWG No.
WD1am4 / JWVA1 / 18
SCALE
1 - 50 / 1 - 500 / 1 - 1250
DATE
March 2019



Ground Floor Plan



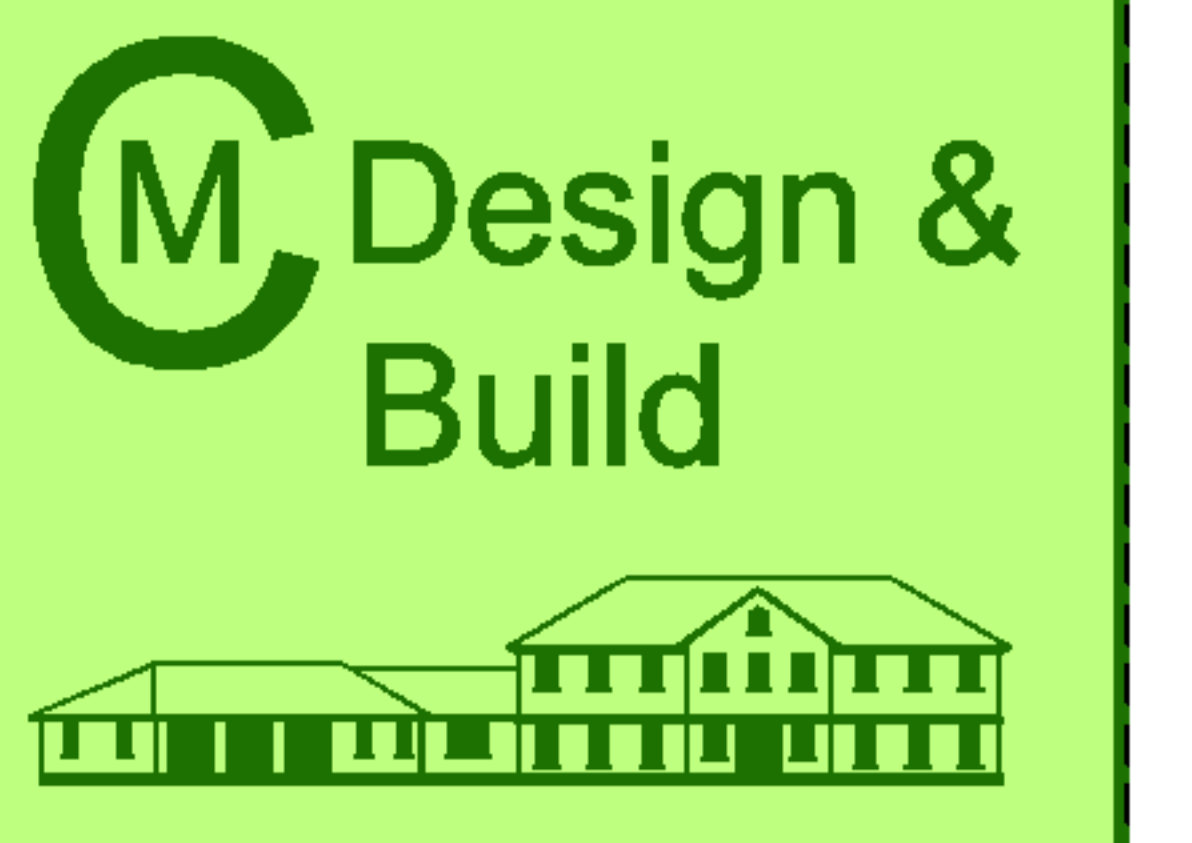
Site Plan 1 - 50



Location Plan 1 - 1250

Refused

Refused



33 Double Dykes
Brechin
DD9 6LD

Tel :- 01241 437166
Mobile :- 07752 046136

E-mail :-
cal170168@gmail.com

TITLE
Proposed Extension to
form Replacement
Garage and Ancillary
Accommodation at
20 Warslap Avenue
Arbroath

CLIENT
Mr & Mrs J Wilson

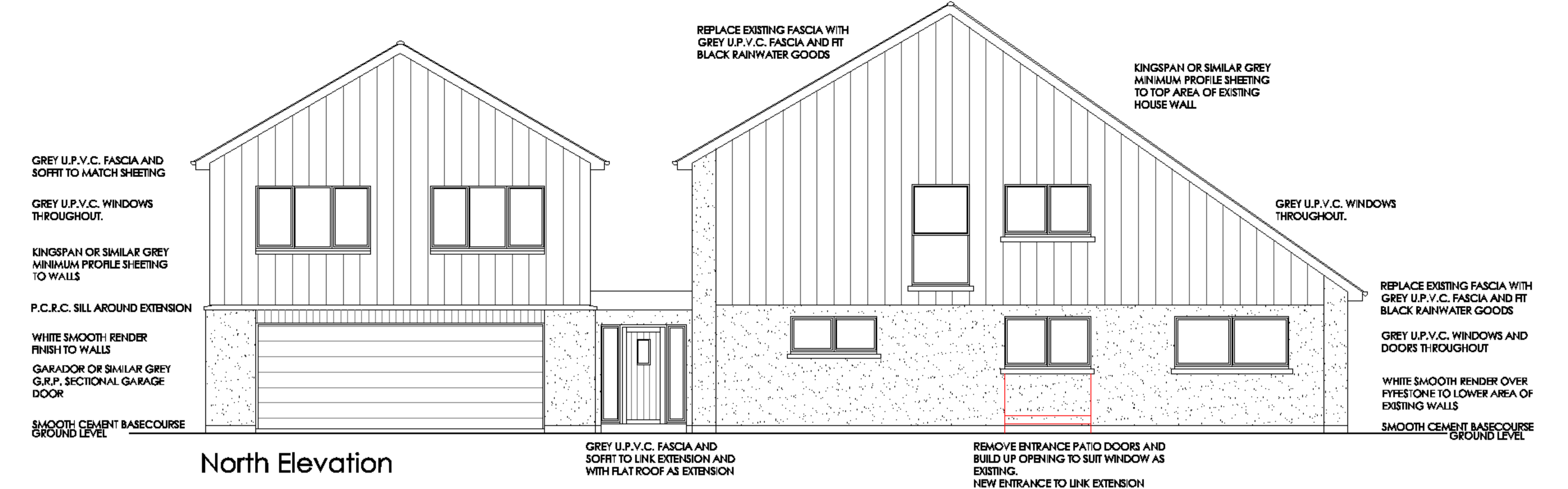
DESCRIPTION
First Floor Plan, Elevations

DRAWING TYPE
Working Drawing 2am4

DWG No.
WD2am4 / JWWA1 / 18

SCALE
1 - 50 / 1 - 100

DATE
March 2019



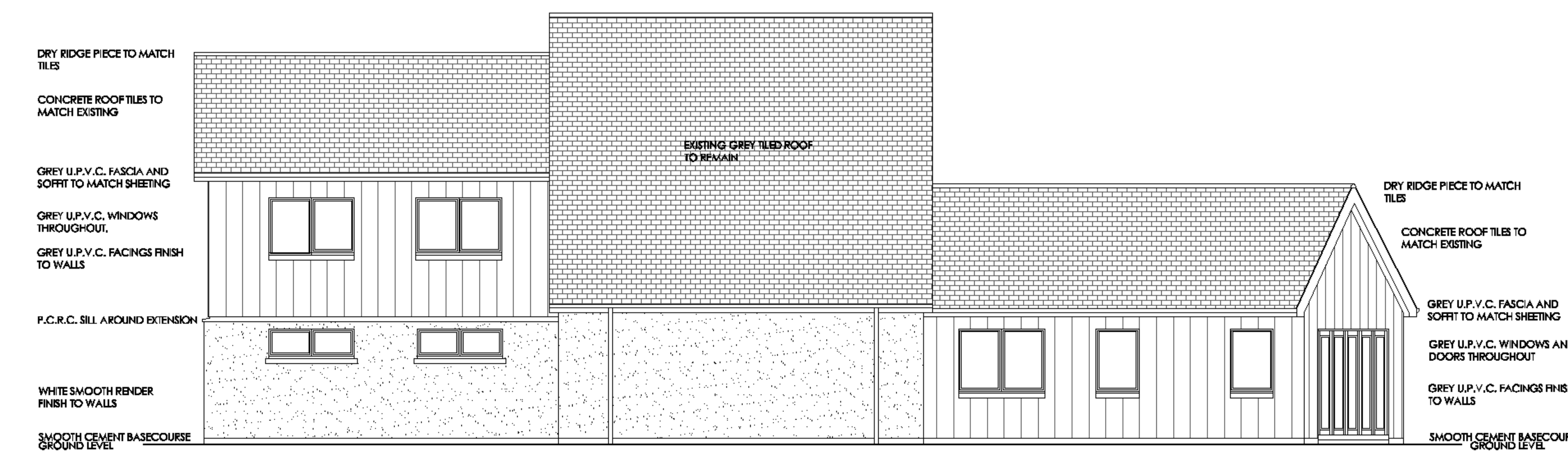
North Elevation



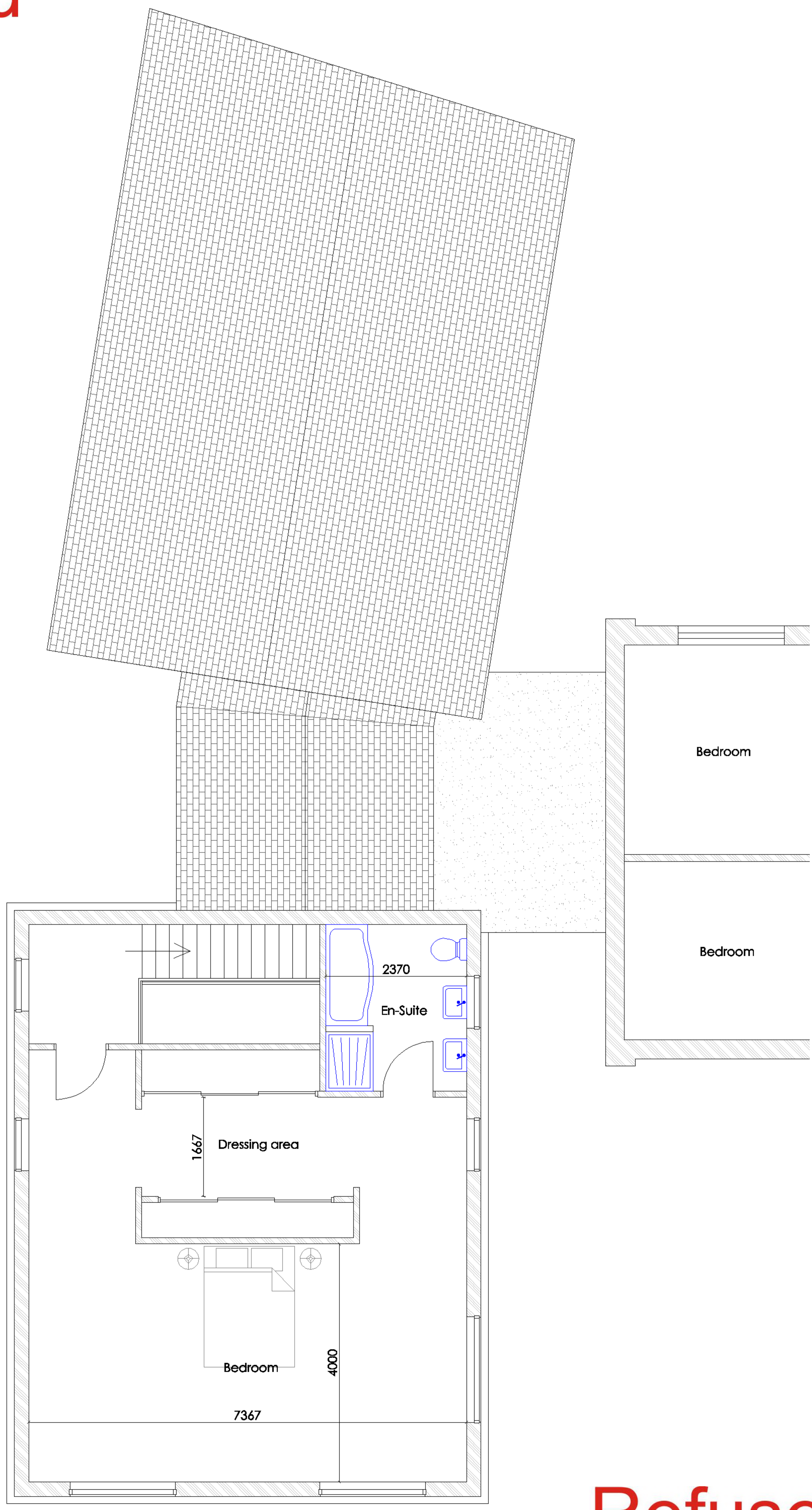
South Elevation



East Elevation



West Elevation



First Floor Plan

Refused









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

PLANNING PERMISSION REFUSAL
REFERENCE : 19/00347/FULL

To **Angus Properties Ltd**
c/o CMD Design & Build
33 Double Dykes
Brechin
DD9 6LD

With reference to your application dated 7 May 2019 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Re-Application for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation at 20 Warslap Avenue Arbroath DD11 2DG for Angus Properties Ltd

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

The reasons for the Council's decision are:-

- 1 The proposal is contrary to policy TC4 of the Angus Local Development Plan and is not compatible with the council's planning advice note on householder development as the design would have a detrimental impact on the character and appearance of the dwelling and the surrounding area.
- 2 The proposal is contrary to policies DS4 and TC4 of the Angus Local Development Plan as it would result in significant adverse impacts on the amenity of occupants of neighbouring property when considered in the context of the council's planning advice note on householder development.

Amendments:

The application has not been subject of variation.

Informatives:

1. Please note that Scottish Water advise that the proposal may impact on a Scottish Water asset, therefore, the applicant must identify any potential conflicts with this asset and contact the Asset Impact Team directly at service.relocation@scottishwater.co.uk

Dated this **23 August 2019**

Kate Cowey - Service Leader
Planning & Communities
Angus Council
Angus House
Orchardbank Business Park
Forfar DD8 1AN

Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

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

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

DURATION

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

PLANNING DECISIONS

Decision Types and Appeal/Review Routes

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

Determination Type	What does this mean?	Appeal/Review Route
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.	DPEA (appeal to Scottish Ministers) – See details on attached Form 1
Delegated Decision	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	Local Review Body – See details on attached Form 2
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.	DPEA (appeal to Scottish Ministers) – See details on attached Form 1

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
Place
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Telephone 01307 492076 / 492533
E-mail: planning@angus.gov.uk
Website: 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.

PLANNING

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

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

FOX PLANNING CONSULTANCY

75 GARSTANG ROAD EAST POULTON-LE-FYLDE FY6 8HL

Tel: 07749324825

Email: janefox@foxplanningconsultancy.co.uk

PLANNING STATEMENT

Incorporating

DESIGN & ACCESS STATEMENT

**ERECTION OF TWO STOREY AND SINGLE STOREY EXTENSION
TO FORM RESIDENTIAL ANNEXE
ANCILLARY TO THE EXISTING RESIDENTIAL FAMILY UNIT**

**20 WARSLAP AVENUE
ARBROATH
DD11 2DG**

**FOR
MR & MRS WILSON**

9 May 2019

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2.0	The Application Site
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7.0	Summary
8.0	Conclusion

Appendix 1: Estates Gazette Planning Law Reports/1991/Volume 2 /Uttlesford District Council v Secretary of State for the Environment and another - [1991] 2 PLR 76 [1991] 2 PLR 76 Uttlesford District Council v Secretary of State for the Environment and another

1.0 INTRODUCTION

This planning statement, incorporating a Design and Access Statement, contains supporting information to accompany the full planning application for the erection of a two storey and single storey extension to the front, side and rear of the existing dwelling to form a granny annexe type of residential annexe ancillary to the existing residential family unit.

The proposed granny annexe will be used ancillary to the existing overall family unit at 20 Warslap Avenue, Arbroath.

The extended accommodation is proposed for the daughter of Mr and Mrs Wilson. There is no intention to create a separate planning unit or to involve a material change of use, or for an independent dwelling that could be sold off or occupied separate to the existing residential planning unit. Regardless of who resides at the property in the existing/extended dwelling the external design reads as a single dwelling house and is proposed to function as a single family unit of accommodation.

2.0 THE APPLICATION SITE AND ITS SURROUNDINGS

20 Warslap Avenue is situated on a bend in the road opposite the junction with Monymusk Road. The property benefits from a wide frontage and a generous sized rear garden that tapers to a triangular shape with sea views from the first floor accommodation.

The red edged application site includes the whole garden area including the main house, associated garden, access and parking areas.



The Application Premises

3.0 RELEVANT PLANNING APPLICATION HISTORY

The application site has been the subject of three relatively recent planning applications which were all withdrawn. Two applications proposed the erection of a detached dwelling in the rear and side garden. The most recent application ref 19/00016/FULL for removal of existing garage and extension to dwellinghouse to form garage and ancillary accommodation was withdrawn in February this year.

4.0 DESIGN & ACCESS

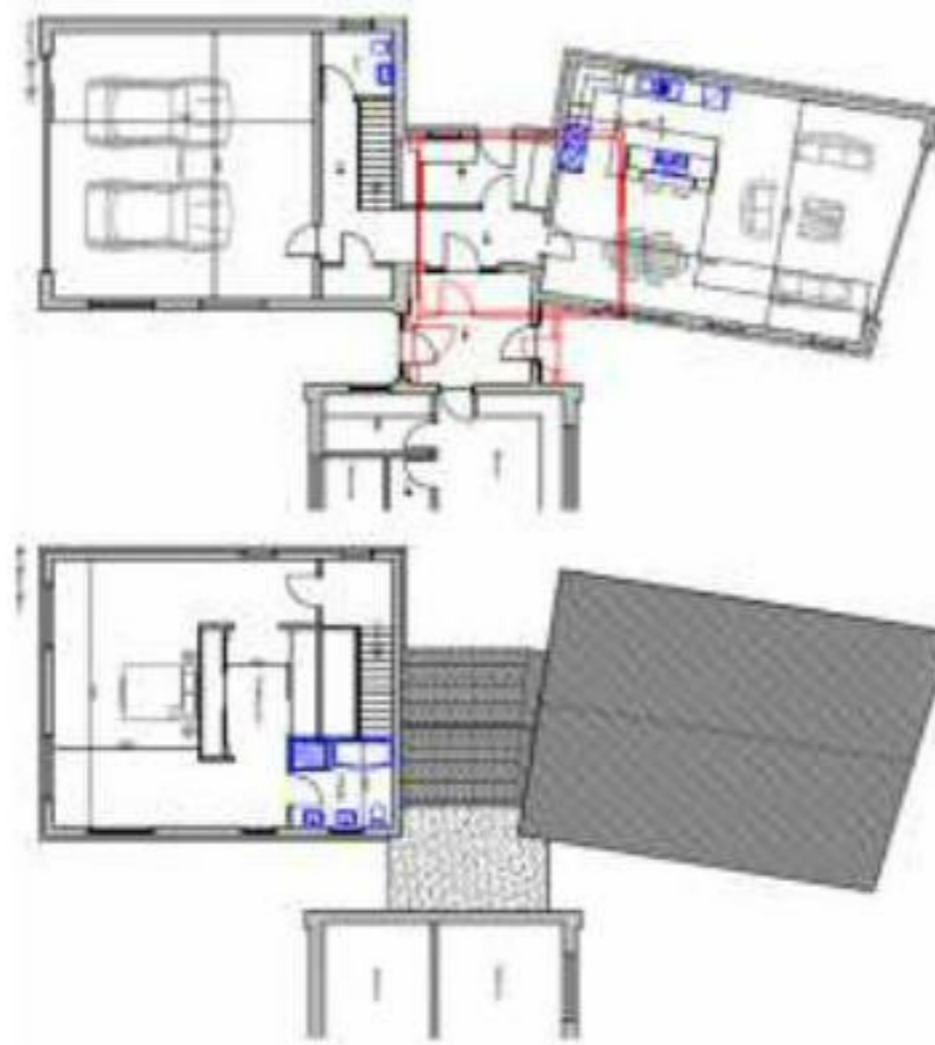
In considering the previous planning application ref 19/00016 the planning officer expressed concern regarding compatibility with Local Development Plan Policies DS4 and TC4 and the Householder Development Planning Advice Note. Concerns were also expressed that the extension would operate as a fully functioning independent house. Issues of design compatibility with the existing dwelling were also raised. All of these issues have been addressed as part of the amended scheme and are addressed below.

4.1 DESIGN

The design of the extension has been significantly amended compared to the previously submitted and withdrawn planning application.

The extension is now set forward of the front elevation, in-line with the adjacent dwelling situated to the south. The front part of the extension is two storey with a

garage at ground floor level and master suite at first floor level. Attached to the rear of the two storey extension is a single storey extension. The rear extension comprises an open plan lounge, dining area and kitchen. The extension is linked to the existing house with a flat roof entrance porch which provides a central point of shared access serving both the existing dwelling and proposed extension thereby forming a well-integrated annexe. The link part of the extension contains the entrance and utility room. The existing main entrance door to the front of the dwelling will be built up to form a window.



Above: Ground and First Floor Layouts



Above: North/Front and South/Rear Elevations

The front two storey extension and the rear single storey extension will have pitched roofs to match the pitch of the main house. Whilst the existing dwelling has an asymmetrical pitch the proposed two storey extension will have a symmetrical pitch that will complement the design, scale and massing of the existing dwelling.



Above: The East and West Side Elevations

The first floor windows in the east elevation of the two storey extension will be obscure glazed to safeguard the privacy of the adjacent dwelling. In the west elevation the first floor windows of the two storey extension will only overlook the front garden area/driveway of the application site. The two storey extension will sit alongside the gable end of the adjacent two storey dwelling where its scale and massing will appear congruous with that dwelling, the application dwelling and the street scene in general. Therefore the design of the proposed extension will not result in any adverse effect upon the residential amenity of any adjacent dwellings or the visual amenity of the area.

The existing external materials comprise a combination of stone and white coloured render. The proposed materials include a smooth white coloured render and

Kingspan grey minimum profile vertical sheeting (or similar). Matching vertical sheeting will also be applied to the existing dwelling in order to enhance and modernise the existing property and provide a co-ordinated design approach. The roof would be concrete tiles to match the existing house. The doors and windows are grey u.p.v.c. type. Grey fascias with black rainwater goods are also proposed.

The design, scale, siting, bulk, massing and appearance of the proposed extensions will sit in harmony with the existing dwelling and surrounding properties and will respect the character and amenity of the area.

4.2 ACCESS/PARKING

The existing vehicular access off Warslap Avenue will be retained for use.

The existing driveway/parking area will be modified to compensate for the forward position of the proposed extension. The revised layout will enable the parking of 2 cars in the double garage and 3 cars on the driveway with turning/maneuvering area.

The proposed parking provision meets current standards and adequate provision for the proposed development and existing dwelling.

5.0 SUSTAINABILITY AND ACCESSIBILITY

The proposed development is regarded to represent a highly sustainable form of development on the following grounds:

- The development will provide accommodation for the extended family whilst providing family support and enhancing quality of life within the single residential family unit that is 20 Warslap Avenue.
 - The development will enable the utilisation of existing garden/access/parking resources and the enhancement of social and economic factors.
 - The development would have minimal impact upon the environment. No trees will be removed.
 - The proposed development would not have a negative impact upon the amenity of adjacent residential properties or upon the character of the countryside.
-

6.0 PLANNING POLICY & OTHER MATERIAL CONSIDERATIONS

In considering the merits of this proposal the planning authority is obliged to take into account the provisions of the development plan, in particular relevant policies of the Angus Local Development Plan, the Householder Development Planning Advice Note and any other relevant material planning considerations.

The relevant material planning considerations also include the proposed accommodation representing an annexe, ancillary to the existing residential family unit at 20 Warslap Avenue, the Council's support for other similar applications providing granny annexe type accommodation and relevant case law as discussed below.

6.1 THE LOCAL DEVELOPMENT PLAN

The Angus Local Development Plan was adopted by Angus Council on 23 September 2016 and sets out the Council's view on how the area should develop over the period from 2016 – 2026.

The following Local Development Plan policies are of most relevance:

- Policy DS – Design quality and Placemaking
- Policy DS4 - Amenity
- Policy TC4 – Householder/Domestic Development
- Householder Development Planning Advice Note

Excerpts of the above policies are contained below.

It is submitted that the proposed extension represents a sensitive and high quality of design that would make a positive contribution to the character and sense of place of the area. The siting of the extension respects the “building line” of the adjacent dwelling and provides an interesting juxtaposition with the existing dwelling. The scale, siting, design and external appearance will complement and enhance the

existing dwelling and will integrate into the street scene thereby respecting the character and identify of the area. The development will support extended family occupation whilst retaining the single family planning unit and will hence represent a “resource efficient” development and a sustainable form of development in an accessible location. Hence the proposal is considered to comply with Policy DS53 below.

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:

- **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 set out in ‘Designing Streets’ are addressed.
- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **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.

Of relevance to the current proposal Policy DS4 requires all developments to have regard to opportunities for maintaining and improving environmental quality. It is considered that the enhancements to the existing dwelling and the overall design quality as discussed above would make a positive contribution towards maintaining and improving environmental quality. The proposed development makes adequate provision for refuse/recycling storage facilities in the rear garden area. Of particular relevance, the proposed extensions would respect residential amenity and would not result in any loss of privacy, outlook, sunlight, daylight or overshadowing to neighbouring properties. The two storey element of the extension would sit in-line

with the gable end of the adjacent dwelling and would not result in any overlooking or loss of privacy. No overlooking would result from the single storey extension.

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.

In respect of Policy TC4 it is considered that siting, design, scale and massing of the proposed alterations/extensions would not result in any adverse effect to residential amenity or the character or appearance of the building and wider area. The application site comprises a relatively wide and deep plot that can adequately accommodate the proposed extensions without resulting in over-development of the plot. Adequate garden ground would be maintained together with ample facilities for parking and bin storage.

Policy TC4 Householder / Domestic Development

Proposals for householder development (including alterations/extensions to houses and flats, development within the curtilage of houses and flats, means of enclosure, satellite antenna and domestic scale microgeneration) will be supported where the siting, design, scale or massing of the proposal, does not:

- adversely affect the residential amenity enjoyed by the house or surrounding domestic properties including, in the case of microgeneration, through noise or shadow flicker;
- detrimentally affect the character and/or appearance of the building, site or surrounding area; and
- result in the overdevelopment of the plot or a loss of garden ground, parking or bin storage.

Further guidance on householder development will be set out in a Householder Development Planning Advice Note.

It is submitted that the proposed development would not conflict with Local Development Plan Policy.

6.2 HOUSEHOLDER DEVELOPMENT PLANNING ADVICE NOTE

The Householder Development Planning Advice Notice was adopted in September 2016. It sets out general guidance on house extensions and assessment of impact upon privacy, daylight/sunlight loss and visual impact. The Note supports front/side extensions that align with neighbouring properties, as is currently proposed. As discussed above the proposed extension has been well-designed and sited so as not to have any detrimental impact upon neighbouring amenity or the character and visual amenity of the area. It is submitted that the proposed extension would not conflict with any of the planning advice set out in the advice note.

6.3 OTHER APPROVALS FOR GRANNY ANNEXES

Angus Council has approved a number of other applications for detached residential annexes and granny flats within existing garden areas. Consistent with the current proposal, these do not result in a material change of use or the formation of a separate planning unit. The approved applications include the following:

Conversion of Garage & Single Storey Extension to form Disabled Granny Flat

29 Oak Loan Baldovie Dundee DD5 3UQ

Ref. No: 10/00875/FULL Approved Subject to Conditions

Erection of a Dwellinghouse and Granny Flat

Denfield Steadings Millfield Arbroath

Ref. No: 10/00744/FULL Approved Subject to Conditions

Alterations & Extension to Dwellinghouse and Provision of Granny Flat

Lethnot House Church Street Edzell Brechin DD9 7TQ

Ref. No: 09/00624/FUL Approved Subject to Conditions

Alterations and Extension to Dwellinghouse (incorporating granny annexe)

11 Monkbarns Drive Arbroath Angus DD11 2DS

Ref: 08/01168/FUL Approved Subject to Conditions

Amendments to House Type to Incorporate Gym, Swimming Pool and Granny Flat

5 Braeside Kirkton Of Auchterhouse Angus DD3 0QQ

Ref. No: 08/01134/FUL Approved Subject to Conditions

Extension to Dwellinghouse to form a Granny Flat

22 Piperdam Drive Piperdam Angus DD2 5LY

Ref. No: 07/01746/FUL Approved Subject to Conditions

Alterations and Extension to Dwellinghouse to Form a Granny Flat

5 Keillor Croft Kellas Angus DD5 3PD

Ref. No: 07/00674/FUL Approved Subject to Conditions

Extension to Dwellinghouse and Internal Alterations to Form Granny Flat

Mowburn Tealing Angus DD4 0QZ

Ref. No: 06/01252/FUL Approved Subject to Conditions

Alterations and Extension to Dwellinghouse to form Granny Flat
44 East Muirlands Road Arbroath Angus DD11 3EY
Ref. No: 05/00226/FUL Approved Subject to Conditions

Conversion of Existing Mill Steading to Dwellinghouse and Granny Flat
The Millhouse Newbarns Inverkeilor Arbroath DD11 5SW
Ref. No: 03/00495/FUL Approved Subject to Conditions

Demolition of existing Smithy and former Dwellinghouse to form new
Dwellinghouse and Conversion of existing Bothy to form Granny Flat
Scryne Smithy Carnoustie Angus DD7 6LL
Ref. No: 02/00717/FUL Approved Subject to Conditions

Formation of a Granny Flat
Collydean Bridgefoot Dundee DD3 0PW
Ref. No: 02/00605/FUL Approved Subject to Conditions

A typical planning condition, as imposed by Angus Council on the approval for 08/01168/FUL at 11 Monkbarns Drive Arbroath (situated adjacent to the application site) restricting the occupation and use of a residential/granny annexe as ancillary to the main dwelling is set out below:

Condition: "That the accommodation provided shall be ancillary to the existing domestic use of the dwelling only."

Reason: "In order to ensure that the accommodation remains ancillary to the main dwelling."

It is submitted that the proposed development ought to be considered in a similar vein to the above planning approvals and a similar condition restricting the occupation and use of the granny annexe ancillary to the existing dwelling unit would be appropriate and would represent consistent decision-making..

6.4 RELEVANT CASE LAW

A copy of the decision in the case of Uttlesford District Council v Secretary of State for the Environment and another - [1991] 2 PLR 76 [1991] 2 PLR 76 Uttlesford District Council v Secretary of State for the Environment and another (Estates Gazette publication) is included in Appendix 1. This case involved the consideration of whether a detached residential annexe amounted to a separate planning unit. In this regard the law report states:

“...The identification of a separate planning unit is a question of fact to be decided on the evidence: see p 82F. The annex in the garage building did not constitute a separate planning unit, the proper test being that of a single family occupation. Having decided that the application did not involve a material change of use, it was unnecessary for the inspector to consider the second stage whether the user was incidental to the dwellinghouse....”

The Inspectors decision at (page 7, para H & page 8, para A), makes it clear that:

“(The) Judge noted that (if) intended to function as an annexe only with the occupants sharing living activity in company with the family in the main dwelling and (it) had its own bedroom, bathroom, lavatory, kitchen, somewhere to sit and (its) own front door – I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling”

In applying the above case law it is clear that the granny annexe subject of this application is an annexe only, incidental to the main dwelling, and would not result in a separate planning unit. It is intended that the occupants will share living activity in company with the family in the main dwelling. The case law makes it clear that even though bedrooms, living room, kitchen etc are provided this does not in itself result in the formation of a separate planning unit.

It is clear also from the form of the proposed development, in particular the siting of the annexe integrated with the existing dwelling, together with the shared use of the

existing access, parking, vehicular turning area and garden areas that the existing planning unit at 20 Warslap Avenue will remain as a single residential planning unit for occupation by the same family and no separate planning unit would be created.

It is submitted that this case law applies to the current proposal; in particular that the development is ancillary to the main house and residential family unit and no separate planning unit would be created.

7.0 SUMMARY

The proposal would not conflict with Local Development Plan Policy. The proposed residential annexe is attached to the existing dwelling and its design, scale and massing would respect the character and amenity of the area and would not result in any adverse impact.

In respect of the use of the building it is not the applicant's intention to create a separate planning unit. Indeed it is intended to use the annexe in conjunction with the existing family residential unit. The provision of bedrooms, living room, kitchen etc in an annexe/extension is confirmed by case law not to amount to a separate unit per se and Angus Council has approved other similar applications on this basis, controlling the use via a planning condition.

The applicant would be happy to accept a suitably worded planning condition requiring that the extension remains in a use incidental to or ancillary to the main dwelling. This would be consistent with the wording of planning conditions imposed on other planning approvals.

The view that the provision of a detached building is incidental to the existing residential family unit, where it contains bedrooms, bathrooms, living room, kitchen etc, is supported by the above Uttlesford District Council case law and would similarly apply to an attached extension as currently proposed. Hence the proposed development would not amount in the formation of a separate planning unit; rather it would be ancillary to the existing family unit at 20 Warslap Avenue.

8.0 CONCLUSION

The provision of a residential annexe incidental to the main dwelling, is in the same family use as is intended by the applicants, can be controlled via a planning condition.

The granny annexe is integrated into the existing residential unit, it would not have a separate curtilage to the main property and it utilises the sole access and driveway of 20 Warslap Avenue. It would not have a separate postal address. The use would be incidental to the enjoyment of the main dwelling house. Uses that are incidental to the main dwelling do not require planning permission for the use as no change of use would occur. The applicants would be happy to accept a suitably worded planning condition on any approval granted in order to prevent the use of the proposed extension as a separate planning unit and that it shall only be used incidental (or ancillary) to the existing dwelling.

The design, scale, massing etc of the proposed building would not result in any adverse impact.

It is submitted that approval of this application would not set an undesirable precedent in planning terms and would be consistent with other planning approvals for granny annexes granted by Angus Council including those referred to in Section 6.3 above. The proposed detached annexe would not result in a separate planning unit and therefore no material change of use is involved. Hence the annexe must be considered ancillary to the existing residential family unit and the application ought to be considered as a house extension proposal and not for the formation of a new planning unit.

The proposed development represents a highly sustainable form of development, would not compromise the objectives of the Local Development Plan policies and Householder Advice Notice.

Jane K Fox MSc Pg Dip
Planning & Development Consultant
9 May 2019

APPENDIX 1: Estates Gazette Planning Law Reports/1991/Volume 2 /Uttlesford District Council v Secretary of State for the Environment and another - [1991] 2 PLR 76 [1991] 2 PLR 76 Uttlesford District Council v Secretary of State for the Environment and another

QUEEN'S BENCH DIVISION Mr Lionel Read QC (sitting as a deputy judge of the Queen's Bench Division)

March 4 1991

Dwellinghouse -- Erection of garage building – Use of part of garage building as annex to house – Whether breach of planning control – Whether creation of separate planning unit – Appeal by council dismissed

The second respondent, Mr Rowland White, is the owner of land and a house at Woodview, Cornells Lane, Widdington, Essex. Planning permission was granted in October 1988 for the erection of a house with a detached garage. The garage was erected to a height some 0.6m above that approved and following a second application planning permission was granted in April 1989 for the retention of the building on condition that it was used for domestic purposes only incidental to the enjoyment of the dwelling and not for a residential annex or a separate dwelling. At ground level the garage building is now divided into a conventional garage and, alongside it, a kitchen area and breakfast bar leading to a staircase. On the first floor there is a bathroom and small bedroom. The second respondent applied for planning permission for the change of use of the garage to provide living accommodation in conjunction with the existing dwelling. In October 1989 the applicant council issued an enforcement notice alleging breach of planning control.

By his inspector, the Secretary of State for the Environment allowed appeals by the second respondent against an enforcement notice issued by the appellant council and against a refusal of planning permission; the enforcement notice, which was quashed, had required the removal of the domestic features in the garage. The inspector had decided that the application was not strictly necessary as no material change of use is involved if a domestic garage within a residential curtilage is used for living accommodation in connection with a dwelling. The inspector treated the appeal against the refusal of planning permission as if an application for planning permission had been made under section 63 of the Town and Country Planning Act 1990 for the retention of the garage at its increased height without compliance with the condition attached by the April 1989 condition. The council applied under section 288 of the 1990 Act to quash the first respondent's decision allowing the appeal against the refusal of planning permission on the grounds that the inspector had erred in treating the appeal in the manner he had and that he was wrong in law.

Held The application was dismissed.

In treating the appeal as if an application had been made to retain the garage without compliance with the planning condition, the inspector did not have to decide and did not decide whether planning permission should be granted for the use proposed in the application submitted to the council: see p 79E. The inspector addressed and decided the first issue as to whether the application involved a material change of use.

The identification of a separate planning unit is a question of fact to be decided on the evidence: see p 82F. The annex in the garage building did not constitute a separate planning unit, the proper test being that of a single family occupation. Having decided that the application did not involve a material change of use, it was unnecessary for the inspector to consider the second stage whether the user was incidental to the dwellinghouse: see p 83.

In relation to the planning condition, the inspector was entitled to find that it was contradictory with the planning permission to which it was attached: see p 83. Although the inspector came to the right conclusion for the wrong [1991] 2 PLR 76 at 77

reason, in concluding there had been no material change of use of the garage building, it was not necessary to quash the decision. Cases referred to in the judgment

Burdle v Secretary of State for the Environment [1972] 1 WLR 1207; [1972] 3 All ER 240; (1972) 70 LGR 511; 24 P&CR 174; [1972] EGD 678; 223 EG 1597, DC

Emin v Secretary of State for the Environment [1989] JPL 909

Wallington v Secretary of State for Wales [1991] 1 PLR 87, CA Application under section 288 of the Town and Country Planning Act 1990

This was an application under section 288 of the Town and Country Planning Act 1990 to quash a decision of the first respondent, the Secretary of State for the Environment, who by his inspector had allowed an appeal against a refusal of planning permission by the applicant council following an application made by the second respondent, Mr Rowland White. Peter Village (instructed by Jameson & Hill, of Hertford) appeared for the applicants, Uttlesford District Council. Guy Sankey (instructed by the Treasury Solicitor) appeared for the first respondent, the Secretary of State for the Environment. The second respondent, Mr Rowland White, appeared in person.

The following judgment was delivered.

MR LIONEL READ QC: This is an application under section 288 of the Town and Country Planning Act 1990 by Uttlesford District Council, who are the local planning authority for their area, to quash a decision by one of the inspectors of the Secretary of State for the Environment, the first respondent, given on an appeal by Mr Rowland White, the second respondent, against a refusal of planning permission by the council. The second respondent, who appears in person on this application, converted the garage of his house to provide some very small separate living accommodation for his mother, but, unfortunately, she died before the conversion was completed and the intention, as I understand it, is that it should now be occupied by his mother-in-law. It is in short, as the second respondent aptly described it in his application for planning permission, a "granny annex".

It is a sad commentary that such a modest proposal for a family purpose should end up in the High Court, but Mr Village, who appears for the council, has said that the council are concerned with the principle involved in the inspector's decision, if there be a principle, and its implications for proposals of a similar kind

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in their district. The relevant facts are a little complex, but, stripped of matter not relevant to the application to this court, they may be shortly summarised.

Planning permission was granted in October 1988 for the erection of the house in which the second respondent now lives with a detached garage. This garage was built to a height greater than that which was permitted and planning permission for the retention of the garage with an increased height was granted in April 1989 subject to the condition that the garage should be used for domestic purposes only incidental to the enjoyment of the dwelling and not for any separate industrial commercial business use or as a residential annex or separate dwelling. In the event the second respondent converted the garage so as to preserve some garage space, but also to provide at ground-floor level and above what had been intended as storage space some small separate living accommodation.

In March 1989 the second respondent applied for planning permission for this conversion. The application was expressed to be for "change of use for detached garage to private living accommodation to be used in conjunction with existing dwellings (in short 'a granny annex')".

That application was [1991] 2 PLR 76 at 78

refused by the council in May 1989 and the second respondent appealed against the refusal in August 1989. In October 1989 the council issued an enforcement notice in respect of the conversion, which the second respondent also appealed under para (a) of section 88(2) of the Town and Country Planning Act 1971 (section 174 of the 1990 Act), that is to say, seeking planning permission for the development enforced against as well as under para (h). The inspector's decision on that appeal to quash the enforcement notice is not the subject of the council's application to this court and it is unnecessary for me to refer to it again.

Both appeals were dealt with by written representations. Following the inspector's considerations of those representations an officer of the Department of the Environment wrote to the parties on May 14 1990 conveying, somewhat unusually but I believe helpfully, the inspector's initial reactions for the parties' comments. Among his observations reported in that letter were the following: 3. He

-- that is to say, the inspector -

considers that the use of the building as a residential annexe to the existing dwelling would involve no material change of use of the dwelling and its curtilage and does not constitute development for which planning permission is required because the use of the planning unit was, and remains, residential. If

-- which is not the present case -the garage were to be severed from the house or to be independently occupied then, of course, this position would change. It follows that the application subject to the s 36 appeal was unnecessary.

4. Although no development would be involved the question remains whether use in the manner proposed would breach the condition attached to the approval of application UTT/0107/89

-- which I interpolate to explain is the one which permitted the increased height of the garage -In this connection the Inspector commented that ...

B. the condition as drafted is arguably contradictory since use as a residential annexe (which it seeks to prohibit) would be a use incidental to the use of the dwelling (which it permits).

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This letter is relevant to the extent that the inspector's subsequent decision is to be read in the light of, and reflects, these initial comments. I have omitted the additional criticism of the condition given in para 4A of this letter, since it is of no direct relevance to the issues which I have to determine. But I need to refer to para 8, which reads: If, the council, in light of the observations at 4A and 4B above, intend to assert the continued validity of the condition then it seems to the Inspector that a proper course for him to adopt would be to treat the application as being made under s 31A of the amended 1971 Act – for the development of land without complying with a condition subject to which a previous permission has been granted. That would enable the validity of the condition as well as the planning merits of [its] removal to be considered.

The council responded to these initial comments by a letter of July 5 1990 from their director of planning. He expressed his agreement with the view of the inspector given at para 3 of the department's letter that "the use of the building as a residential annexe to the existing dwelling would involve no material change of use ... and does not constitute development for which [1991] 2 PLR 76 at 79

planning permission is required". He also agreed with para 4B of the department's letter and continued: It is the use of the unit as a separate dwelling which the Council seeks to prohibit. Planning permission has been granted for a garage -- if it is sold away separately from the main house then it will no longer be within its curtilage, so any residential occupation can then not be ancillary. In this instance planning permission would be required for a conversion to dwelling and any application would be considered on its merits.

He concluded by asserting the validity of the condition subject to which the April 1989 permission was granted.

The inspector then gave his decision by letter dated August 29 1990. By that time the Town and Country Planning Act 1990, which consolidated the Town and Country Planning Act 1971 and other enactments, had come into force. As I have said, he quashed the enforcement notice. On the appeal against the refusal of planning permission he decided that he should treat the application for planning permission as if it were made under section 63 of the 1990 Act for the retention of the building at its increased height without compliance with the condition attached to the April 1989 consent. He considered this was the appropriate course

rather than under section 73 of the 1990 Act (previously section 31 A of the 1971 Act), as suggested in the department's letter of May 14 1990, since the consent on which the condition was imposed had been implemented. The council make no criticism of this course of action. Indeed it was, as Mr Village for the council accepts, agreed by the parties.

In the result, by treating the application in this way the inspector did not have to decide and did not decide whether planning permission should be granted for the use proposed in the application submitted to the council. On the, as it were, amended application the only question was whether the condition attached to the April 1989 permission for the retention of the garage should be removed or modified. On their second principal head of argument the council challenged the correctness in law of the way in which the inspector decided that question. I deal with that argument later in this judgment, but at this stage I am concerned to identify and then address the council's first principal ground for challenging the inspector's decision.

This first principal ground of challenge is directed to the inspector's reasons for determining the application under appeal in the way that he did. That reason was foreshadowed in para 3 of the department's letter of May 14 1990. It was formally incorporated as part of his decision at para 9 of his decision letter. It is this paragraph which is the subject of challenge. That paragraph reads as follows:

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The application the subject of this appeal was not strictly necessary in my view since no material change of use is involved if a domestic garage within a residential curtilage is used for living accommodation in conjunction with the dwelling – a point made in paragraph 3 of my earlier letter and – again – one from which the Council do not dissent.

In arguing that this paragraph reveals error of law Mr Village conceded at the outset of his argument that the council not only had not dissented from the proposition there stated by the inspector but had agreed to it. This is apparent from the passage in the council's letter of July 5 1990, which I have already read. Hence the council agreed on the argument now addressed to the court to an error of law by the inspector, but, Mr Village argues, an error of law cannot be agreed by the parties to an appeal. Now contending that there is such an error of law, the council by this application accordingly bring the matter before the court for correction.

I agree with this part of Mr Village's argument to this extent. If there be
[1991] 2 PLR 76 at 80

error in law by the inspector such that his decision was outside the powers given to him by statute, the council cannot bring his decision within those powers by any agreement to what the inspector in fact did. The burden of Mr Village's submissions is that the inspector erred in law because he did not approach correctly the question which he had to determine on the application under appeal, reached a wrong conclusion on that question and failed to give adequate reasons for it. Those submissions were pervaded throughout by Mr Village's contention that there is no rule of law that, as para 9 of the decision reads, "no material change of use is involved if a domestic garage within a residential curtilage is used for living accommodation in conjunction with the dwelling". That, he submits, is not only an over-simplification; it is a manifestly wrong approach.

In deploying his argument on those submissions Mr Village begins with the definition of development, now to be found in section 55 of the 1990 Act. Subsection (1) defines development as meaning, so far as here relevant, "the making of any material change in the use of any buildings or other land". Subsection (2) then provides that the operations or uses of land therein set out "shall not be taken for the purposes of this Act to involve development". The use at para (d) is here relevant, that is to say, "the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such".

Mr Village submits that section 55 required the inspector to follow a two-stage approach by which he should first have considered whether the use of the garage as proposed constituted a material change of use and hence, at that stage, development, and, if it did, whether, as a second stage, that use was for a purpose incidental to the enjoyment of the principal dwellinghouse as such. In support of his submission Mr Village referred to the judgment of Farquharson LJ in *Wallington v Secretary of State for Wales* given on November 7 1990 and so far unreported*. At p 3 of the transcript of his judgment Farquharson LJ said+ : The section contemplates a two-stage approach, first, has there been any material change in the use of, in this case, the cottage? If not, then the enforcement notice is bad and the appellant would be entitled to succeed. If there has been a material change of user, there will still not be a development within the meaning of subsection (1) if that user is incidental to the enjoyment of the dwellinghouse as such. In the argument before us the questions posed by these two subsections have been taken together, but they should be dealt with separately.

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Slade LJ at pp 6 and 7 of the transcript§ similarly stressed the need for the inspector to adopt this two-stage approach, though he referred to the two stages as "two separate questions".

Mr Village then submits that, if this two-stage approach had been followed, which, he submits, it was not, the inspector should first have determined the correct planning unit. On that question Mr Village cites the judgment of Bridge J (as he then was) in *Burdle v Secretary of State for the Environment* [1972] 1 WLR 1207 at p 1212. There the learned judge sketches out three broad categories of distinction, as he put it, to assist in determining the planning unit which should be considered in deciding whether there has been a material change of use. I quote those passages of most relevance: First, whenever it is possible to recognise a single main purpose of the occupier's use to his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered....

[1991] 2 PLR 76 at 81 But, secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another....

Thirdly, however, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit....

It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally.

Mr Village challenges the inspector's decision at para 9 of his decision letter on three grounds, that is to say: first, he did not address his mind to whether the garage building was a separate planning unit; second, he should have determined that it was a separate planning unit by reason of its location at the end of the rear garden area and of the fact that it was self-contained and therefore there was a material change of use and accordingly development within section 55(1); and, third, he failed to give any reason for finding that the dwellinghouse and garage were part of the same planning unit.

If, as Mr Village submits, there were two separate planning units and a material change of use, he argued that the inspector should have gone on to consider within the terms of section 55(2)(d) whether, nevertheless, development was not involved because the use of the garage was incidental to the enjoyment of the dwellinghouse as such. On that second stage of the correct approach he submits that the inspector should have found that, the garage building with its residential annex being a separate planning unit, its use as living accommodation was not incidental to the enjoyment of the principal dwellinghouse as such. On this question Mr Village referred to the judgment of Sir Graham Eyre QC (sitting as a

deputy High Court judge) in *Emin v Secretary of State for the Environment* [1989] JPL 909 at p 913, where the learned deputy judge said that "the word 'incidental' connoted an element of subordination in land use terms in relation to the enjoyment of the dwellinghouse itself". Reliance was also placed upon a passage in the judgment of Farquharson LJ in the case of *Wallington* (at p 6 of the transcript*), where he said: "In my judgment the word 'incidental' in this context means as Mr Laws for the respondents puts it 'subordinate in land use terms to the enjoyment of a dwellinghouse as a dwellinghouse'."

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Lastly, Mr Village adopts as the correct approach which the inspector should have followed but did not follow the views expressed by the Secretary of State in a decision reported at [1987] JPL 144+ . That decision was given on an appeal against a determination which raised the question whether a proposal to erect a grannyannex building in the garden of a dwellinghouse would be permitted development within class 1.3 of Schedule 1 to the Town and Country Planning General Development Order 1977 as a building required for a purpose incidental to the enjoyment of the dwellinghouse as such. I read what appears to me to be the most relevant passages of that decision: Additions to the normal, basic, domestic living accommodation of a dwelling-house, such as bedrooms, which are normally to be expected as part and parcel of any dwelling's normal facilities, are not regarded, as a matter of fact and degree, as being "incidental" to the enjoyment of the dwelling-house as such for the purposes of Class 1.3; they are an integral part of the

[1991] 2 PLR 76 at 82 ordinary residential use as a dwelling-house ... The view is taken that the word "incidental", on the other hand, means something occurring together with something else and being subordinate to it. Accordingly, a purpose which is incidental to the enjoyment of a dwelling-house is distinct from activities which constitute actually living in a dwellinghouse. Incidental purposes are regarded as being those connected with the running of the dwelling-house or with the domestic or leisure activities of the persons living in it, rather than with the use as ordinary living accommodation. Similarly, ... the Department's present view is that the use of an existing building in the garden of a dwelling-house for the provision of additional bedroom accommodation is not now to be regarded as being "incidental" to the enjoyment of a dwelling-house as such for the purposes of section 22(2)(d)

-- that is a reference to the Town and Country Planning Act 1971 -it merely constitutes an integral part of the main use of the planning unit as a single dwelling-house and, provided that the planning unit remains in single family occupation, does not therefore involve any material change of use of the land; in those circumstances it is now considered that there is therefore no need to rely on section 22(2)(d).

I have summarised Mr Village's submissions at some length because of the concern that the council is said to have at the implications of the inspector's decisions for other similar proposals, but I am bound to say that I do not accept that the decision has implications for proposals which are not identical on the facts. In considering those submissions I have in mind throughout the precise nature of the change of use for which planning permission was sought, that is to say, from "detached garage to private living accommodation to be used in conjunction with existing dwellings (in short 'a granny annex')".

This is ordinary language and I have no difficulty in understanding the proposal. The provision of such accommodation is common place.

It is not necessary that the inspector should have expressed himself as adopting a two-stage approach to the issue he had to decide if he in fact decided such questions as were required to be answered. The first was whether the application involved a material change of use. That turned on whether a separate planning unit would be created. In my judgment, the inspector addressed and decided that question. Para 9 of his decision

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letter must be read with the department's earlier letter, which conveyed his initial views and to which the inspector referred in his decision letter. The language which he there used may not be as precise as might reasonably be expected from a judge of this court, but I have no doubt that the inspector is there expressing his conclusion, albeit then provisionally, that the garage with the living accommodation would remain part of the same planning unit as the dwellinghouse. That was a finding of fact and degree and the council did not dissent from it in their letter, as the inspector observed in his decision letter. His reasons for that decision are there stated adequately and intelligently.

I can find no error of law in that decision. Mr Village submits that the inspector should have found that the garage with its living accommodation was a separate planning unit. The decision was, however, one of fact and degree. There was evidence on which the inspector could reasonably have decided as he did. Mr Village stressed the second respondent's representation that the accommodation gave the "occupant the facilities of a self-contained unit", although "intended to function as an annexe only with the occupant sharing her living activity in company with the family in the main dwelling". In so far as that was a material fact it was for the inspector to weigh it. I have no reason to conclude that he did not. As a material fact I do not think it has on the facts of this case the significance that Mr Village attributes to it. In the end it amounts to no more than the fact that the elderly relative to be accommodated [1991] 2 PLR 76 at 83

would have her own bedroom, bathroom and, I assume, lavatory, small kitchen, somewhere to sit and her own front door. To that extent she will be independent from the rest of her family. I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling. So to conclude would suggest that the removal of any element of what was to be provided in this case, for example, the bathroom, such that the relative would to that extent be dependent on the facilities in the main house, would maintain that living accommodation in the same planning unit. There is, in my judgment, no reason in law why that should be so.

It follows that, having decided the first question arising on the two-stage approach required in the way he did, the second stage did not fall for determination. It is therefore unnecessary for me to make any judgment on the argument put to the court on the second of the two stages and I do not do so. Those are matters best left to be dealt with if and when they are in point.

When the inspector came to consider the condition attached to the April 1989 permission he decided at para 13 of the decision letter: The condition as drafted is also self-contradictory since it purports to limit the use to purposes incidental to the enjoyment of the dwelling and then proceeds to exclude one such use – namely use as a residential annexe. In so far as it also seeks to preclude any separate industrial commercial or business use the condition is in my view unnecessary since any such separate uses would constitute a material change of use and require planning permission.

Mr Village challenges the first part of this paragraph. He submits that the condition was not unnecessary or self-contradictory since use as a residential annex cannot be equated with use for purposes incidental to the enjoyment of the dwellinghouse.

Mr Sankey for the Secretary of State does not dispute that the reason given by the inspector for the condition being self-contradictory cannot be supported. If, as the inspector found, a garage with its living accommodation was part of the same planning unit as the dwellinghouse and provided that the planning unit remains in single family occupation, no material change of use is involved and no question arises of the use of the garage being used for a purpose incidental to the enjoyment of the dwellinghouse as such. Mr Sankey also submits that the inspector would have been right, however, to have found that the condition contradicted the planning permission to which it was attached and that his finding that it was unnecessary was a matter of planning judgment.

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I accept Mr Sankey's submissions, which to an extent concedes Mr Village's point. Since, in my judgment, the inspector came to a correct conclusion although for the wrong reasons, I am not satisfied that the court is necessarily justified in quashing the decision on that limited ground. In any event I am satisfied that there is neither need nor purpose in the exercise of my discretion to quash it on that ground and to send it back for redetermination. Accordingly, I do not quash it. In the result the application is dismissed.

Application dismissed.

CALUM
MCLEISH

From: CALUM MCLEISH
Sent: 21 Jun 2019 08:51:49 +0100
To: ChalmersPE
Subject: Fwd: Letter or response to O'Brien 18 Warslap Avenue

Dear Pauline,

20 Warslap Avenue, Arbroath 19/00347/FULL

Please see below a letter / email from the applicants Mr & Mrs Wilson, regarding the neighbour at 18 Warslap Avenue, Arbroath.

I would ask that this is taken account of within the application process.

Also regarding the objection by DS Clark and the reply by Mr & Mrs Wilson regarding the inaccurate information, I would ask that the reply by the Wilsons, dated 6/9/19, be included in the application.

I trust this meets with your approval meantime but if you have any queries please do not hesitate to contact me.

Kind regards

Calum Mcleish
C.M. Design & Build

Planning Department,

Mr & Mrs O'Brien have made three objections to our own applications for an extension, next door, at 20 Warslap Avenue.

Two of these objections were made previous to their purchase of the property at 18 Warslap Avenue.

The focus of Mr & Mrs O'Brien's argument was based on our proposed extension partially blocking the light at a certain hour from their south facing garden.

However, they are now applying to cover the garden area in question with a 1000 sq ft extension?

We would only object to applications purely on planning grounds rather than personal views of neighbours?

In the past, we have had various extensions and houses sited on the boundaries either side of our property and it has never had any impact on our property or affected our lifestyle, we support our surrounding neighbours and community and so have never objected.

We continue to do so!

James and Alison Wilson

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

**PLANNING PERMISSION FOR REMOVAL OF EXISTING GARAGE AND
EXTENSION TO DWELLINGHOUSE TO FORM GARAGE AND
ANCILLARY ACCOMMODATION (RE-APPLICATION) AT 20 WARSLAP
AVENUE, ARBROATH**

APPLICATION NO 19/00347/FULL

APPLICANT'S SUBMISSION

Page No

ITEM 1	Notice of Review
ITEM 2	Appeal Statement
ITEM 3	Site Plan of Surrounding Properties
ITEM 4	Site Plan of Neighbouring Extension
ITEM 5	Photographs

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>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	
Forename	JAMES.	Forename	CALUM.
Surname	WILSON.	Surname	MCLEISH.
Company Name		Company Name	C.M. DESIGN & BUILD
Building No./Name	20	Building No./Name	33.
Address Line 1	WARSLAP AVE.	Address Line 1	DOUBLE DYKES.
Address Line 2		Address Line 2	
Town/City	ARBROATH.	Town/City	BRECHIN.
Postcode	DD11 2DG.	Postcode	DD9 6LD.
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	CALUM@CALUMMCLEISH-DESIGN.CO.UK
3. Application Details			
Planning authority	ANGUS COUNCIL.		
Planning authority's application reference number	19/00347/FULL.		
Site address	20 WARSLAP AVENUE, ARBROATH, DD11 2DG.		
Description of proposed development	REMOVAL OF EXISTING GARAGE & EXTENSION TO DWELLINGHOUSE TO FORM GARAGE AND ANCILLARY ACCOMMODATION.		

Date of application

7-5-19.

Date of decision (if any)

22-8-19.

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

4. Nature of Application

Application for planning permission (including householder application)

Application for planning permission in principle

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

Application for approval of matters specified in conditions

5. Reasons for seeking review

Refusal of application by appointed officer

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

Conditions imposed on consent by appointed officer

6. Review procedure

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

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

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

7. Site inspection

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

Can the site be viewed entirely from public land?

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

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

No.

8. Statement

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

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

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

SEE 3 PAGE DOCUMENT - INCLUDED.

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes No

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

9. List of Documents and Evidence

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

1. 3 PAGE DOCUMENT WITH ANSWERS TO REFUSAL NOTES.
2. SITE PLAN WITH EXTENSIONS AND GRANNY FLAT GRANTED SURROUNDING THE SITE.
3. SITE PLAN OF GRANNY FLAT NEXT TO THE SITE.
4. PAGE WITH OTHER PROPERTIES IN WARSLAY AVENUE.

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.

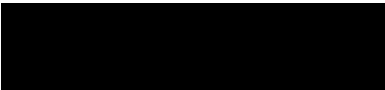


Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, 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:

JAMES WILSON.


Date:

19-11-2019.

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

Planning Reference: 19/00347/FULL

James Wilson
Angus Properties
20 Warslap Avenue
Arbroath
Angus
DD11 2DG



To:
Angus Council
Planning Department (Appeal/Review Board)
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Date: 19/11/2019

The main reasons for this application looking forward are:

1. To provide ancillary accommodation for myself and my spouse in our retirement.
2. To create enough space in the main house for our daughter to occupy so we will both have our own dwelling areas, essential for maintaining a good relationship.
3. This would render modern, economical accommodation to suit our needs.
4. The existing garage needs to be upgraded to a modern, insulated version for storage of classic cars.
5. The plot requires an abundance of maintenance which could be shared by the return of our family.
6. A symmetrical, single-storey extension with a similar ratio of existing building: new extension has been granted to our neighbours at 18 Warslap Avenue, with the exact same boundary to their own neighbours at 16 Warslap Avenue.
7. The existing house will need to be converted to a more modern 2 bedroom en suite property.

Arguments to refusal points:

1. TC4

The development would not be detrimental to the dwelling or the surrounding area as there are a vast variety of architectural designs along Warslap Avenue. Please see the attached images.

The plot at 20 Warslap Avenue occupies the largest frontage on the street, with most of the houses leading up to it from Viewfield road occupying two dwellings to the same frontage.

2. DS4 and TC4

There have been two dwellings built along the same boundary as the application with one having a similar proportioned sized ancillary accommodation added next to the main house that has not affected us in any way (image attached)
The development will be single-story next to neighbour's south-facing garden.

3. TC4 (3 comments)

3.1:

Adversely affect the Residential amenity enjoyed by the house or surrounding domestic properties including, in the case of microgeneration, through noise or shadow flicker;

Answer:

There will be only two retirement-age residents occupying the property, who have never raised and concern for noise pollution to their' neighbours. The proposed property will be well-insulated.

The development will be single-storey as is the existing garage next to the neighbour's south-facing garden.

3.2:

Detrimentially affect the character and/or appearance of the building, site or surrounding area;

Answer:

The design and aesthetic are consistent with both the existing house and the rest of the street which has come about by way of Angus Council's planning direction from past applications.

Warslap Avenue has a variety of styles and sizes of properties, with the larger properties from this site to the end of the road being built in the 1970s.

3.3:

Result in the overdevelopment of the plot or a loss of garden ground, parking or bin storage.

Answer:

The site is the first of the larger, newer plots on Warslap Avenue.

The plot occupies the largest frontage on the street, with most of the houses leading up to it from Viewfield road occupying two dwellings to the same frontage.

The gardens are extremely large at both the front and the rear of the property.

Parking is expansive and bin storage would never be a problem.

DS4 makes comments:

1: *Air Quality.*

Answer: There will be no problem with air Quality as there will be no pollution.

2: *Noise and vibration levels and times when such disturbances are likely to occur.*

Answer: There will be no noise, vibration or disturbances from the property as it will be occupied by the existing occupants at No20 who have never caused any problems in the past.

3: Levels of light pollution.

Answer: The property at No18 has a South facing garden that has been granted planning to cover even more of the garden area, light pollution was never an issue with their own neighbours No16s garden on the application. Our application will be single storey next to No18 garden ground light pollution will not be an issue either.

4: Levels of odours, fumes and dust.

Answer: The only odour, fumes, and dust are generated by the neighbours burning their rubbish at night. Any ancillary garden waste will be taken to the local recycling centre as in the past.

5: Suitable provision for refuse collection/ storage and recycling.

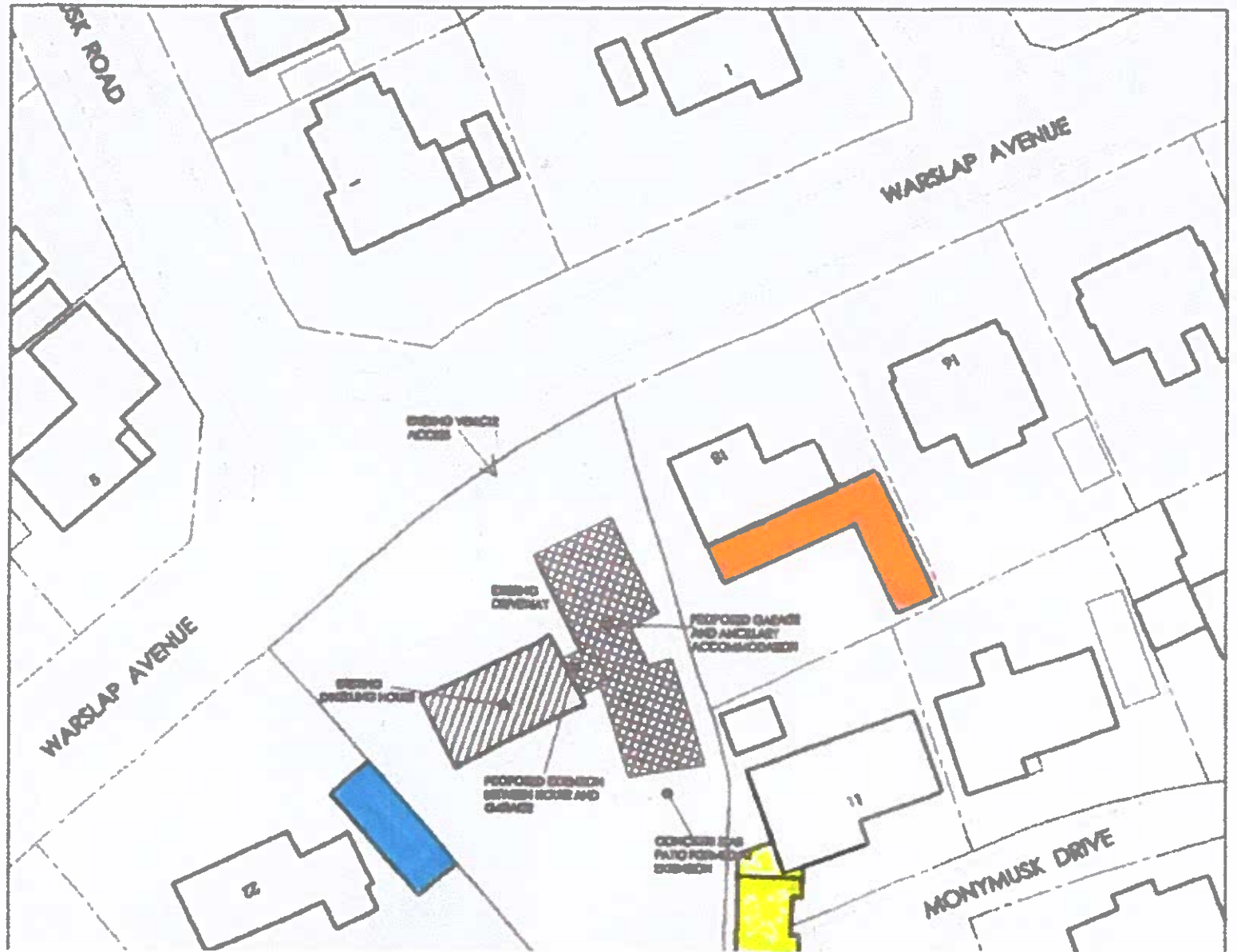
Answer: There will be more than ample room to operate these facilities due to the size of the plot.

6: The effect and timing of traffic movement to, from and within the site car parking and impacts on highway safety.

Answer: There will be no change to the existing vehicular movement in the household as it once housed more residents, parking is more than ample for the site.

7: Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Answer: The plot is an extremely large site for this area of town; the new extension will only be occupying a small area outwith the original footprint. The rear garden area at 18 Warslap Avenue is South-facing. The New two-storey proposed section is in line with both No. 18 and the rest of the houses along the road and the section that runs alongside their garden will be a single storey. The new extensions which have recently been approved for No. 18 (marked in orange on the plan attached) is a near mirror image single-storey extension that will be built directly on the boundary adjacent to their own neighbour's property. If this has been approved, a precedent has been set. Furthermore, a garage and extension have been built directly on the same eastern boundary next to our house and garden ground (marked blue on the attached plan). No18 is basically used as a third home (another in Glasgow and a third in Marbella Spain) therefore the property is left vacant for long periods. A similar detached Granny Flat was granted to No11 Monkbarns Drive (marked in yellow on attached plan) that runs alongside eastern garden boundary also of similar ratio size to the original that has had no affect on our own lives. The overall development of the site will only have 3 bedrooms in total instead of the existing 4 bedrooms.



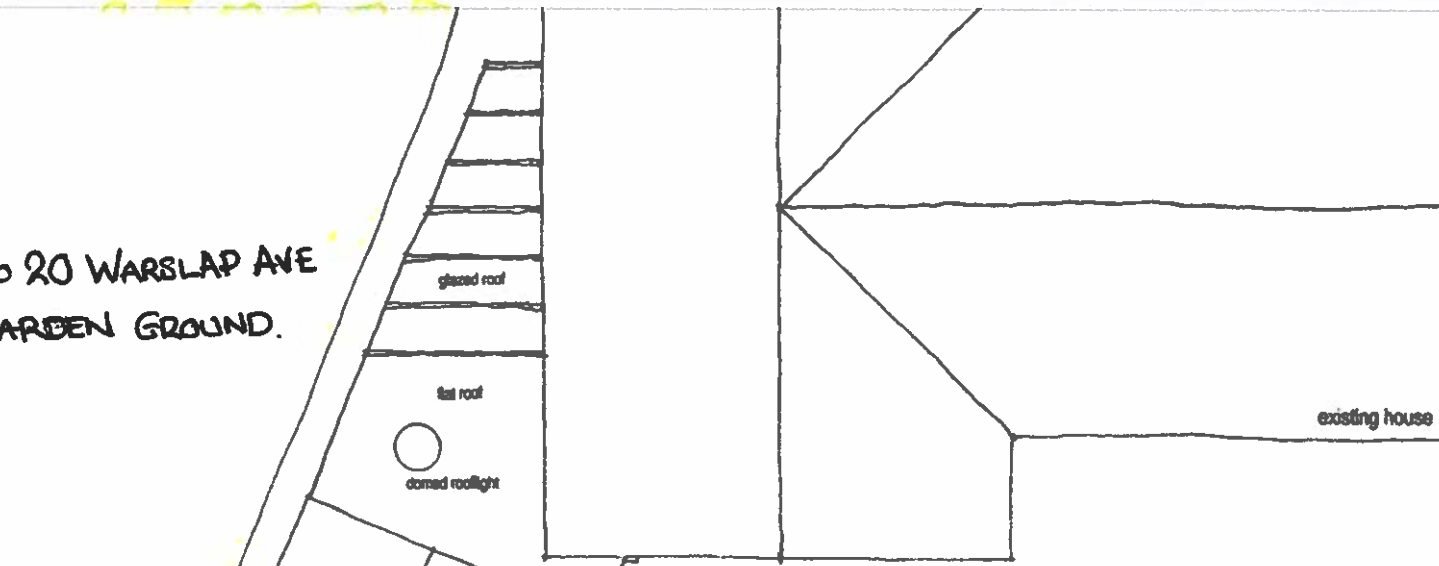
PROPOSED ALTERATIONS & EXTENSION
TO HOUSE TO FORM GRANNY FLAT
11 Monksbarne Drive
Arbroath

MR B TONER

Job No: 3595/DD02

Date: Nov 07

No 20 WARSLAP AVE
GARDEN GROUND.



existing house

glazed roof

tiled roof

domed rooflight

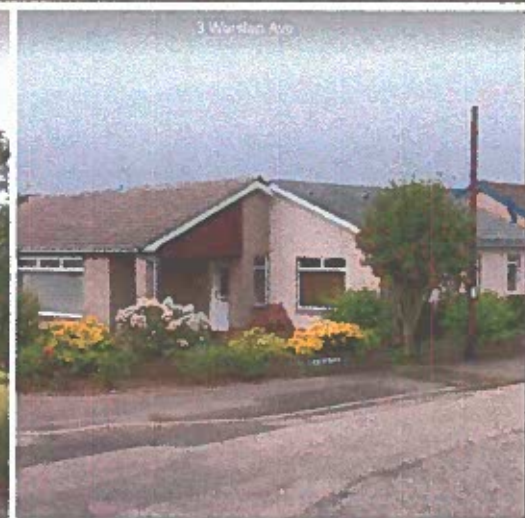
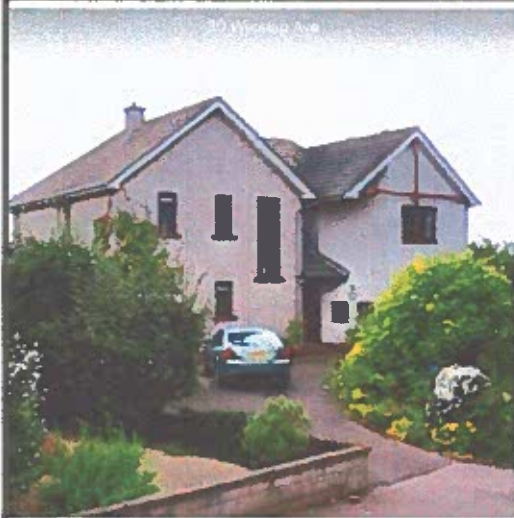
existing boundary line

roof line to match existing

ROOF PLAN
SCALE 1:100

30 Warslap Ave

ITEM 5



APPENDIX 3

FURTHER LODGED REPRESENTATIONS

From: [Derek Duncan](#)
To: [ForsythSL](#)
Subject: Re: Application for Review - 20 Warslap Avenue, Arbroath
Date: 05 December 2019 20:28:36

Hi Sarah

I have nothing further to add to my objections to this development, Proposed design matches nothing in the neighbour hood and my fear is this will end up as apartments down the line.

Kind regards
Derek

Sent from my iPad

On 26 Nov 2019, at 11:02, ForsythSL <ForsythSL@angus.gov.uk> wrote:

Dear Sir

Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013
Application for Review – Planning Permission for Removal of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary Accommodation (re-application) at 20 Warslap Avenue, Arbroath – Mr J Wilson
Application No 19/00347/FULL - DMRC-7-19

I refer to the above planning application and your lodged representations to that application.

I write to advise you that the applicant has made an application for a review of the decision taken by the Service Leader – Planning and Communities. This is a process brought in by the above legislation to enable applicants dissatisfied with a decision of the Planning Authority to ask for it to be reviewed. This review will be made by Angus Council's Development Management Review Committee. A copy of the Council's Decision Notice is attached for your information.

In accordance with the above Regulations, I am required to ask you if you wish to make any further representations. The Review Committee will be given copies of your original representation. If you do wish to do so, you have 14 days from the date of receipt of this email to make such representations. These should be sent directly to me.

The applicant will then be sent a copy of these representations and the applicant will be entitled to make comments on them. These comments will also be placed before the Review Committee when it considers the review.

I can also advise that a copy of the Notice of Review and other documents related to the review can be viewed by appointment at this office.

In the meantime, should you have any queries please do not hesitate to contact me.

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Legal & Democratic Services | Angus Council | Angus House | Orchardbank Business Park | Forfar | DD8 1AN | T: 01307 491985 | ForsythSL@angus.gov.uk

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<Decision notice.pdf>

From: [Jim Stewart](#)
To: [ForsythSL](#)
Subject: Application for review 20 Warslap Avenue Arbroath
Date: 03 December 2019 22:49:00

Dear Madam

Re Planning Permission for Removal of Existing Garage and Extension to Dwelling To Form Garage and Ancillary Accommodation at 20 Warslap Avenue Arbroath

Thank you for your correspondence re the above .

I note the planning authorities prior decision to refuse the application based on the non compliance with householder development guidelines as the design will have a detrimental impact on both the subject house and the surrounding area , which clearly I agree with is certainly the case.

Further I consider it undeniable that the proposed substantial two storey structure with its addition of a substantial pitched roof above that two storey level to increment the height even further as opposed to the existing single storey garage structure with a flat roof design will have significant adverse impact on the neighbouring property at 18 Warslap Avenue , Arbroath and the occupants of that house in terms of both the reduction in the privacy enjoyed and the loss of light .

I have not repeated the points raised in my prior correspondence for purposes of brevity however do consider my own and those contained in the other letters of objection from a number of the surrounding properties to remain valid and applicable and consider the decision of the planning authority to refuse the application to be a correct one .

Yours Sincerely

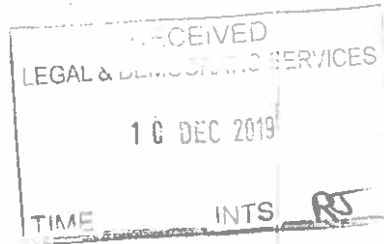
James Stewart

22 Warslap Avenue Arbroath

James OBrien
 18 Warslap ave
 Arbroath
 DD112DQ

Angus Council Planning

19/00347/FULL



Dear sirs

06/12/2019

Planning Review

I wish to address the points raised by James Wilson Angus Properties.

DS4. Air quality

The close proximity of the proposed kitchen and presumably extraction system could cause undesired odours.

3 Levels of light pollution.

James Wilson Angus Properties states his application would be single storey next to 18 Warslap Ave garden ground, but ignores the fact that the single storey element is mostly adjacent to 11 Monkbarns.
 3.3

Although James Wilson Angus Properties statement regarding the frontage of 20 Warslap Ave is correct, the plot tapers and reduces substantially to the rear. The existing dwelling being the first of six dwellings on the south side of Warslap ave was sited sympathetically in a position which was mutually acceptable to the planning department and the occupants of 18 Warslap Ave and others, and is the smallest of the six plots. I would add that plots on the north side of Warslap Ave sited on corners therefore of different addresses occupy similar side meterage on Warslap Ave.

The 2 storey element of the proposed development in close proximity, would dominate 18 Warslap Ave and cause loss of light and shading and privacy

James Wilson Angus Properties comments on the extension approved for 18 Warslap Ave. The planned development will provide approx 55 sq mtrs of extra living accommodation and extends approx two metres south beyond the existing west wall in the garden ground, which at present is a concreted area.

The development on the eastern boundary adjoining 16 Warslap Ave will replace existing wooden shed type garage and storage which are in a poor state of repair, with a more attractive and substantial material to match the house. The dimensions of the garage are approx the same. Since it is replacement of the wooden sheds which have stood on that site for many years and do not contravene planning conditions, no precedent has been set.

We have resided in Warslap Ave for 4 decades and moved into no 18 on 15 march 2019.

I hope you will find these comments pertinent in reaching your decision.

James OBrien

11 Warslap Avenue
Arbroath
DD11 2DG

Sarah Forsyth
Committee Officer
Legal & Democratic Services
Angus Council
Orchardbank Business Park
Forfar
DD8 1AN

6th December 2019

Dear Ms. Forsyth,

**Town and Country Planning (Schemes of Delegation and Local Review Procedure)
(Scotland) Regulations 2013. Application for Review – Planning Permission for Removal
of Existing Garage and Extension to Dwellinghouse to form Garage and Ancillary
Accommodation (re-application) at 20 Warslap Avenue, Arbroath – Mr. J Wilson**

Application No 19/00347/FULL - DMRC-7-19

Thank you for your letter of notification of the above.

We note the planning authority's commentary of 23rd August 2019 pertaining to the applicant's failure to seek pre-application advice in respect of all current and historic planning applications relating to the site, their continual non-observance of council planning policy and subsequent failure to produce development proposals meeting the most basic standard of design criteria. We are confident that the planning authority's decision to refuse this application was fair and just and was made in full accordance with the Angus Local Development Plan including all relevant planning advice notes and circulars. In consideration of the vexatious nature of the applicant's request for review and its exiguity of credibility, we have no further objections to offer, save for those previously intimated in our correspondence of 4th June 2019.

Notwithstanding the foregoing, we would wish to draw the review committee's attention to the additional points of representation contained within our prior correspondence that were not necessarily relied upon by the planning authority during the determination of this application.

Thank you for your attention to the above.

Yours sincerely,

I M & N C Henderson

APPENDIX 4

APPLICANT'S REPOSE TO FURTHER REPRESENTATIONS

**J & A Wilson .
20 Warslap Ave
Arbroath, Angus, DD11 2DG**

23/12/ 2019

**Att Sarah Forsyth | Committee Officer | Legal & Democratic Services | Angus
Council |Angus House | Orchardbank Business Park | Forfar | DD8 1AN |**

Reply to planning appeal objections Application No 19/00347/FULL

Reply to D Duncan

D Duncan States that he thinks I will turn the extension in apartments?
The application as applied for stands.

Sum up to the neighbours objections:

**Given the explanations I believe that the application is not contrary to policy
TC4 & DS4 as given. A precedent has been set and therefore fits the criteria for
the surrounding area with no detrimental or adverse affect on the amenity of
occupants of any neighbouring property.**

**J & A Wilson .
20 Warslap Ave
Arbroath, Angus, DD11 2DG**

23/12/ 2019

**Att Sarah Forsyth | Committee Officer | Legal & Democratic Services | Angus
Council | Angus House | Orchardbank Business Park | Forfar | DD8 1AN |**

Reply to planning appeal objections Application No 19/00347/FULL

Reply to I & N Henderson 11 Warslap Avenue.

I have taken direction from the Angus planning department. Where are they getting this misinformation from? I have submitted various applications each time taking instruction from the planners as to what they wanted. Position and style including the pitched roof. I finally employed an Ex Angus Council planner now turned Planning Consultant that stated the plan was within all guidelines and aesthetic to the area taking in all the Planners remarks from the previous applications.

Sum up to the neighbours objections:

Given the explanations I believe that the application is not contrary to policy TC4 & DS4 as given. A precedent has been set and therefore fits the criteria for the surrounding area with no detrimental or adverse affect on the amenity of occupants of any neighbouring property.

**J & A Wilson .
20 Warslap Ave
Arbroath, Angus, DD11 2DG**

23/12/ 2019

Att Sarah Forsyth | Committee Officer | Legal & Democratic Services | Angus Council | Angus House | Orchardbank Business Park | Forfar | DD8 1AN |

Reply to planning appeal objections Application No 19/00347/FULL

Reply to J O'Brien objections at number 18 warslap Avenue.

Re Air Quality & Odours

With regard to the odours we have never had any issues with household cooking odours from ourselves or neighbours. We are only two people. The extraction vent outlet can be situated at the opposite side to the boundary.

Re Plot Size

The frontage of **No 20** equals the same distance as **No18** and **No 16** both occupy. The plot size of **No18** is appx **687 sq.m** with a new extension of **99sq.m**. The plot size at **No20** is appx **1553sq.m** over twice the size of **No 18** with a new extension of **140sq.m**.

Re 2 Storey Position

The majority of the new single storey extension application will occupy ground next number No 18's garden ground with a very small amount adjacent to No 11 Monkbarns Avenue garden shed as can be clearly seen on the plan? The new extension at **No 18** will extend **3.85 mts** from the existing house into the garden not **2mts** as he states. And the total area of the new extension is appx **99 sq.m** not the **55sq.m** as he states. The Existing wooden garage, sheds and conservatory were put up without planning permission.

Re Light & Privacy

Nearly all of the houses on our side of Warslap Avenue from Viewfield Road down have structures on the same LHS of their garden boundaries that not only shelter gardens from the winds but also give privacy to their neighbour's gardens. All the properties are South facing so light pollution is never affected. At present we have completely lost our privacy to the residents of No 18.

Sum up to the neighbours objections:

Given the explanations I believe that the application is not contrary to policy TC4 & DS4 as given. A precedent has been set and therefore fits the criteria for the surrounding area with no detrimental or adverse affect on the amenity of occupants of any neighbouring property.

**J & A Wilson .
20 Warslap Ave
Arbroath, Angus, DD11 2DG**

23/12/ 2019

**Att Sarah Forsyth | Committee Officer | Legal & Democratic Services | Angus
Council | Angus House | Orchardbank Business Park | Forfar | DD8 1AN |**

Reply to planning appeal objections Application No 19/00347/FULL

Reply to J Stewart 22 Warslap Avenue.

J Stewart states that he is not happy with the pitched roof. One of the previous applications was shown as a flat roof and the planners said they wanted a pitched one. **No 18** Warslap Avenue has been granted planning for their single storey extension on the boundary next to their own neighbour's garden at **No 16** Warslap Avenue, this was of no concern to J Stewart at that time?

Sum up to the neighbours objections:

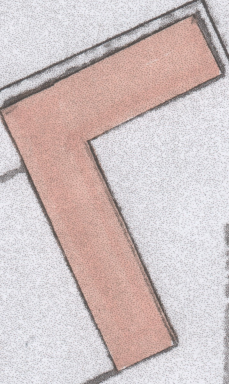
Given the explanations I believe that the application is not contrary to policy TC4 & DS4 as given. A precedent has been set and therefore fits the criteria for the surrounding area with no detrimental or adverse affect on the amenity of occupants of any neighbouring property.

WARSLAP AVENUE

MONKBARNS DRIVE

Orange = Single Storey

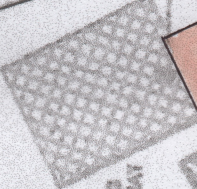
No 18 Warslap Ave
Plot Size appx 687 sq.m



PROPOSED GARAGE
AND ANCILLARY
ACCOMMODATION

CONCRETE
PROPOSED
BARBICUE

PROPOSED DECK
BETWEEN HOUSE AND
GARAGE



EXISTING DRIVEWAY



EXISTING DRIVEWAY

EXISTING VEHICLE ACCESS

No 20 Warslap Ave
Plot Size appx 1533 sq.m

Existing

WASK ROAD

WARSLAP AVENUE

