

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 21 MARCH 2022

REST GARDEN, MAIN STREET, BARRY

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 for erection of a dwellinghouse, application No 21/00279/FULL, at Rest Garden, Main Street, Barry.

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/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- 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. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment is not required.

6. CONSULTATION

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

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

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List of Appendices:

Appendix 1 – Submission by Planning Authority

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Appendix 4 – Applicant Response to Further Representations

ANGUS COUNCIL'S SUBMISSION ON GROUNDS OF REFUSAL

APPLICATION NUMBER – 21/00279/FULL

APPLICANT- S & R DEVELOPMENTS (ARBROATH) LTD

PROPOSAL & ADDRESS – ERECTION OF A DWELLINGHOUSE AT REST GARDEN
MAIN STREET BARRY

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Angus Council

Application Number:	21/00279/FULL
Description of Development:	Erection of a dwellinghouse
Site Address:	Rest Garden Main Street Barry
Grid Ref:	353661 : 734419
Applicant Name:	S & R Developments (Arbroath) Ltd

Report of Handling

Site Description

The site measures around 600 square metres and is located to the north of Main Street adjacent to its junction with Mill Road. The site has been used as an amenity space/rest garden with a semi-formal appearance with connecting pathways and soft landscaping. The site has historically been well maintained with seating and managed lawns, flower beds and other planting. The site has more recently lacked management and maintenance and it is noted that the seating has been removed.

The site is bound to the north by a graveyard situated in an elevated position behind a retaining wall, to the east by Mill Road with housing beyond, to the south by Main Road and to the west by a pedestrian entrance to the graveyard with housing beyond. The boundaries of the site consist of stone walls of varying heights.

The north part of the site historically accommodated a church building with an approximate footprint of 350 square metres. It is understood that this building was demolished in the early 1990's but a small lean to shed remains in the north east corner of the site.

Proposal

Planning permission is sought for the erection of a two storey 3 bedroom dwellinghouse on the site. The house would be positioned in the northwest corner of the site with an access and parking area in the north east corner and the area to the south would be garden ground. The house would be 7.25m high and would have a ridged roof finished in grey tiles and a mix of off white render and reconstituted stone on the walls. The windows and doors would be grey UPVC. The small building currently sited in the north east corner of the site would be converted into a home office.

Vehicular access would be formed onto Mill Road to the east. The application form indicates that the house would connect to the public drainage and water supply network and would include provision for sustainable drainage.

Amendments

Amended Proposed Floor Plans, Sections and Elevations Plan (drawing number 21_05_02 Rev A Planning) submitted on 10/05/21 supersedes the drawing previously submitted. This amendment showed changes to the design of the proposed dwellinghouse.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 23 April 2021 for the following reasons:

- Neighbouring Land with No Premises

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

Planning History

13/01129/PPPL for Planning Permission In Principle For Erection Of A Dwellinghouse was determined as "Refused" on 21 March 2014. The application was refused for the following reasons:-

- 1. The application is contrary to Policy SC32 of the Angus Local Plan Review 2009 as the proposed development would result in the loss of an area of open space that contributes positively to the streetscene and provides a usable and valuable area of amenity space for the village of Barry.*
- 2. The proposal would be contrary to Policy S1 criterion (a) of the Angus Local Plan Review because it fails to be compatible with other policies of the local plan, namely Policy SC32.*

That decision was subject of a review to the Development Management Review Committee in June 2014, who dismissed the review and refused planning permission in principle for a house. The DMRC report indicates that the committee noted the significant objection to the proposal, and they considered that the rest garden was an important open space and focal point for the community. The report indicates that the committee considered the proposal to be contrary to policies designed to protect open space from other forms of development and there were no material considerations which justified approval of the application.

20/00860/FULL for Erection of Dwellinghouse was determined as "Application Withdrawn" on 9 April 2021.

Applicant's Case

A Design and Access Statement, Comments from Congregation of Barry Church, a Bat Survey, Landscape and Biodiversity Comments, a Tree Survey, Response to Representations and Additional Images (August 2021) were submitted. The content of these can be summarised as follows:

Design and Access Statement (and Appendix I - III):

- Describes the site and states that the land was formally occupied by the church hall and is vacant;
- Site never created as an official rest garden;
- Shows evidence of rubbish in the area;
- The northern part of the site would be classed as brownfield;
- The southernmost part of the site, approximately 262sqm was previously garden ground associated with the former Church Hall. It is not owned, managed, or maintained by the community.
- Previous efforts to encourage community involvement in the maintenance of the garden area have been unsuccessful.
- The congregation of Barry Parish Church are getting older and are no longer able to maintain the garden ground either physically or financially.
- Not identified as open space in the development plan;
- Describes the proposal and design and references the planning history including refused application 13/01129/PPPL;
- The existing well and stone feature located within the garden ground will be retained as focal points within the garden.
- States there is no loss of open space and this is private garden.
- Site is privately owned with no public rights of access,
- Lots of other open space in area and site is not allocated open space;
- Developing the site for residential use will be to the benefit of the local area and streetscape;
- Indicates there would be no impacts on listed buildings or wildlife;
- In accordance with Structural Engineers statement, trees growing at the base of the retaining wall will have to be removed as they are adversely affecting the structural integrity of the retaining wall.
- Concludes that the proposals seek to maintain the existing garden ground and develop the northern brownfield section of the site. This will ensure the garden ground is maintained and retained as a focal point in the village.

Appendix 1 - Letter from Ballie Shepherd Solicitors – suggests that the site is privately owned and opines

that it is not subject to any public rights of access or way;

Appendix II - E-mail from Millard Consulting Engineers - Confirms the trees need to be completely removed and roots removed, that the wall will require underpinning locally and repaired to maintain the integrity of retaining wall;

Appendix III - Gives lists of types of private open space in PAN 65 and states the current proposal is private gardens or grounds.

Comments from Congregation of Barry Church:

- Garden was never created to be an official 'Rest Garden';
- After the demolition of the church hall, the site was becoming an eyesore and was tidied up in the late 1980s or early 90s, by a Youth Club, which included young people linked to Barry Parish Church, under a Youth Club Scotland Challenge initiative. A bench seat was put in and the well was made a feature;
- In 2014/15, an open meeting was held at which a group of residents intimated a plan to set up a local residents group to look after the site. In 2018, there was an intention to form a residents' association under the Scottish Community Buyout scheme, but this has not happened. In 2019, the resident who was originally trying to set up the Residents group was looking to find another resident to spearhead the initiative.
- Impacts from construction are only temporary and hazardous materials would be dealt with appropriately;
- Privacy of residents not affected and design is acceptable,
- No impacts on traffic flow and off road parking included on the plan;
- Work on the garden has stopped since Covid;
- Site belongs to the church.

Preliminary Ground Level Bat Roost Assessment, Bird and Protected Species Survey For Trees at New House Plot (dated 17/06/21) by Tay Ecology Limited:

- The tree survey demonstrated a low or negligible potential for the presence of bat roosting features for the trees at the site.
- No further surveys of trees with low or negligible potential bat roost features are required.
- There was evidence of common birds nesting in the trees and shrubs. It is recommended that any works which may impact vegetation are planned to take place outside of the nesting season where possible.
- Retaining and planting of bat friendly trees, shrubs and plants will enhance the habitat for bats.

Landscaping and Biodiversity Comments Document:

- It is clear from the Tree survey and correspondence from the Structural Engineer that the existing trees to the rear of the site require to be removed, irrespective of whether the development goes ahead.
- A further 3 trees have root systems currently adversely affecting the existing wall. Again, this requires to be addressed irrespective of whether the development goes ahead.
- The remaining trees on site are non-native low-quality trees of little ecological value. The proposals include replacing existing trees with native trees. The proposals will enhance biodiversity and have a positive ecological impact.
- The existing open space will not be lost due to the development as the new house is located on the brownfield part of the site.
- With regards to statements from objectors:
- The open space to the south of Main Street, which is apparently currently used as garden ground, is not part of the curtilage of a dwelling house; It is therefore subject to the same statutory rights of access as the development site.
- It is clear that action requires to be taken to address the current condition of the site. The current proposals present the opportunity to resolve these issues while still maintaining a green landscaped corner to the junction of Mill Street and Main Road.

Tree Survey and Arboricultural Impact Assessment For New House Plot, Mill Road, Barry, Carnoustie, Angus Friday 18th June 2021 Author Emma O'Shea BSc, PG Dip Env Mgmt. Tay Ecology:

- It is proposed to fell the nine trees surveyed on the site. The trees are all Category U which would not be realistically retained, and Category C trees which under normal circumstances would not be required to be retained in a development context, unless in a location where they do not represent a significant constraint on the proposal.
- The trees include seven non-native conifers three of which have been previously shaped/cut, three of these trees have roots impacting the boundary wall, and all are of limited ecological value. Four of the conifers are in the development footprint and would cause severe constraints if retained. There are two deciduous trees both of which have significant amounts of deadwood in the main stems and whose roots are detrimentally impacting the stone structures at the site.
- It is anticipated that the loss of trees at the site can be compensated for by planting native trees, shrubs, and plant;
- Tree protection is not required;

Response to Public Objections:

- Loss of Open Space - The land is privately owned and not subject to any public rights of access or rights of way. The site has become an eyesore and is having a detrimental effect on the current streetscape. Attempts to attract community involvement with maintenance of the garden has been unsuccessful. Masonry structures on the site require urgent repair and maintenance;
- The objectors have offered no alternative solution as to how lack of maintenance of garden ground would be resolved;
- The site is rarely used by the community and the area to the rear of the site is unsafe.
- Lack of open Space - Suggest there is no lack of open space and the open space to the south of Main Street Barry would, under The Land reform (Scotland) Act 2003, be subject to statutory public rights of access for recreational and other purposes.
- Current Condition of Site - Site has deteriorated since Nov 2020 and provided photos taken in 2020;
- Privacy - No impacts on privacy. In response to neighbours comments have replaced balcony with Juliette Balcony;
- Transport and Access - confirms appropriate sightlines will be provided and every effort will be made to minimise disruption during construction;
- Trees - The existing trees growing out of the base of the retaining wall and the existing masonry building on the site require to be removed to ensure structural integrity of these structure.
- Proposed Development - Development of a new house on a brownfield site will reduce the pressure of development on greenfield or previously undeveloped land.
- The site is ideally located for public transport and close to amenities.
- The proposed house will provide a high quality residential property;
- The proposed site is within an existing residential area.
- There is considerable community support for the application.

Updated site photos taken 1st August 2021 to show current extent of site have also been provided.

Consultations

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

Roads (Traffic) - No objections subject to conditions requiring visibility splays to be provided.

Scottish Water - No objections.

Aberdeenshire Council Archaeology Service - No objections but asked for a photographic survey condition to be added. Also noted an unusual carved stone surviving in the north boundary/retaining wall and that works don't appear to be proposed to this particular section. However if works are proposed they would ask that care is taken not to damage this stone.

Parks & Burial Grounds - Objects to this application on the grounds that the proposal would result in the loss of open space. Parks has indicated that the site and the adjacent churchyard are the only areas of open space in Barry. Carnoustie and Barry neighbourhoods combined show an under provision of open space so the development area should be preserved for the use of the wider community.

Parks indicate that if planning permission was to be granted (1) the boundary retaining wall would need to be protected during the construction works; (2) the home office planned in the former hall store would share one wall with the existing retaining wall of the churchyard and ownership of this section needs to be verified; and (3) pedestrian access to the churchyard from the south must be safeguarded.

Angus Council - Countryside Access –The proposed development would result in the loss of public access within the site, including a number of short paths. However, given the availability of a path immediately to the west, which provides access to the cemetery, it would not significantly affect the accessibility of the area as a whole.

Representations

28 letters of representation were received. 20 representations objected to the proposal and 8 supported the proposal.

The main points of concern were as follows:

- Visual amenity impacts and proposed house design is out of character.
- Loss of greenspace and this is the only area of greenspace in Barry left by for the local community and is well used by people of Barry and its visitors.
- There are existing access rights over the site;
- Photos taken are misleading and show deterioration between Nov 2020 and May 2021;
- Loss of trees and impacts on wildlife;
- Lack of Consultation by Applicant with Church congregation;
- Not an issue with fly tipping;
- Reasons for refusal of application 13/01129/PPPL are still valid;
- Demand for new housing sufficiently met in area;
- Feasibility of the proposal as church hall demolished due to subsidence and concerns relating to stability of existing wall;
- Garden laid out as a memorial for a former Reverend;
- Area could be used for something more beneficial to village;
- Concerns regarding potential erection of fencing or hedging to enclose area to front;
- Comments that rural areas around Barry referred to are mainly working Farms with little public access;
- Road Safety, Poor lighting, no pavement and parking concerns;
- Area has not been totally unmaintained and was maintained periodically;
- Council adoption of the site would be a better option;
- Drainage concerns;
- Construction impacts - Noise, parking impacts and amenity;
- Amenity impacts - loss of privacy from overlooking and loss of daylight;
- Support from residents who do not live in immediate area.

The main points of support were as follows:

- The proposed building is on ground which previously contained a church hall;
- Proposed dwelling house is in keeping with style of the village; and would improve appearance of site;
- Site rarely used by members of the public;
- Land is privately owned;
- Proceeds from sale needed to secure longer life of Barry Church;
- 'Right of Way' claim - no evidence provided of regular or continuous use by the public over the past 20 years;
- Villagers were given the opportunity to purchase and maintain the land but it was never taken up;
- Ageing congregation unable to maintain the area;
- When the former Hall was demolished, the Congregation arranged for the ground to be laid out as a garden and permitted the local community to take access to it. The Congregation could have closed off the area and prevented access to it.

Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
 Policy DS3 : Design Quality and Placemaking
 Policy DS4 : Amenity
 Policy TC2 : Residential Development
 Policy PV2 : Open Space Protection and Provision within Settlements
 Policy PV3 : Access and Informal Recreation
 Policy PV5 : Protected Species
 Policy PV7 : Woodland, Trees and Hedges
 Policy DS2 : Accessible Development
 Policy PV15 : Drainage Infrastructure
 Policy PV8 : Built and Cultural Heritage

TAYplan Strategic Development Plan

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

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

Assessment

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

Policy DS1 in the Angus Local Development Plan (ALDP) states that for unidentified sites within development boundaries, proposals will be supported where they are of a scale and nature appropriate to the location and where they accord with other relevant policies in the ALDP.

The site is known as the 'Rest Garden'. Whilst historically there has been a church building on part of the site to the north, that was removed a number of years ago and the site has been used as an amenity space for the village over a period of time. Although maintenance of the rest garden appears to have ceased or reduced, it had been maintained until relatively recently with a semi-formal appearance with seating, connecting pathways and soft landscaping. In terms of this planning application the site must be considered as open space/amenity ground and that approach is consistent with the planning permission in principle application previously submitted in 2013.

Policy PV2 applies to proposals affecting open space within settlements. It states that Angus Council will seek to protect and enhance existing areas of open space of sporting, recreational, landscape, wildlife, amenity, food production, access and flood management value. It indicates that development involving the loss of open space (including smaller spaces not identified on the Proposals Map) will only be permitted in limited circumstances including:-

- where the proposed development is ancillary to the principal use of the site as a recreational resource; or
- where it is demonstrated that there is an identified excess of open space of that type (backed up through an open space audit and strategy) to meet existing and future requirements taking account of the sporting, recreational and amenity value of the site; or
- where the retention or enhancement of existing facilities in the area can best be achieved by the redevelopment of part of the site where this would not affect its sporting recreational, amenity or biodiversity value, its contribution to a green network, or compromise its setting; or
- where replacement open space of a similar type and of at least equal quality, community benefit and accessibility to that being lost will be provided within the local area.

In addition to the more formal parks and larger areas of open space, the policy also applies to smaller areas of open space not identified on the proposals map such as the application site. The narrative

associated with the policy indicates that open spaces will be protected from development which would erode the function or characteristics for which they are valued.

The proposal to build a dwellinghouse on this area of open space is contrary to all of the circumstances which permit the loss of open space under Policy PV2.

The loss of open space to accommodate a new house would not be ancillary to the principal use of the site as a recreational resource (i). It has not been demonstrated that there is an excess of open space to meet existing and future requirements (ii) and available information suggests that there is a deficiency in open space provision in the Carnoustie (including Barry) area. The development of the site for a private house would not support retention or enhancement of existing facilities in the area and would adversely impact on the amenity value of the open space (iii); and the proposal does not include replacement open space of a similar type and of at least equal quality, community benefit and accessibility to that being lost (iv).

The applicant has provided supporting information suggesting that Barry is a rural settlement on the outskirts of Carnoustie with a considerable amount of open space adjacent to the site. However, parks and burial grounds has commented that the site together with Barry Churchyard form the only areas of open space in Barry and note that that the Carnoustie and Barry neighbourhoods combined already show an under provision of open space. Parks and burial grounds consider that the site should be preserved for the use of the wider community as open space and object to the application on that basis.

Angus Council's 2017 Open Space Audit identifies that Carnoustie (incorporating Barry) has a deficiency in the quantity of available open space, with approximately 2.10 HA of open space per 1000 head of population against a standard of 2.43 HA per 1000 head of population. While the council's audit does not deal with smaller sites of less than 0.2HA including the application site, it cannot reasonably be concluded that the area has an excess of open space justifying the loss of this area for new housing where the council's audit identifies a deficiency; and it would be undesirable to see the piecemeal loss of areas of open space which are valued by the community.

The applicant suggests that the area to the south of the proposed house would continue to provide a visual amenity to the village as maintained garden ground. However, if this area was within the curtilage of house it would be inaccessible for members of the public. It is clear from objections to the application that the potential loss of this open space is a matter of concern to the local community and the open space area is considered to be of value to the amenity of the area.

Whilst it appears that more recently the site has not been maintained to the standard that it previously was, poor maintenance and neglect of an area of open space should not be used as a justification for its development for other purposes. Small open spaces such as that found within the site are typical focal points in smaller settlements and they are valuable as a green setting to the area. The area provides amenity value to residents and a townscape value which would be lost were the site developed.

The proposal fails to satisfy any of the circumstances where the loss of open space is permitted, and the proposal is contrary to Policy PV2. The proposal is also contrary to Policy TC2 because proposals for residential development in development boundaries are only supported where the site is not protected for another use and the site is protected open space under Policy PV2.

The proposal is contrary to policies PV2 and TC2 for the reasons given above. For completeness, the remaining policy tests are addressed below.

Policy PV3 indicates that new development should not compromise the integrity or amenity of existing recreational access opportunities including access rights, core paths and rights of way. It states that existing access routes should be retained, and where this is not possible alternative provision should be made. Policy PV3 indicates that new development should incorporate provision for public access including, where possible, links to green space, path networks, green networks and the wider countryside.

The site contains a gravelled path which runs from Main Road on the southern site boundary through the site towards its west side. The gravelled path connects to another path which runs alongside the western site boundary and connects Main Road to the stone steps which lead to the graveyard. It is suggested in representations that there is also a route through the site from Mill Road adjacent to the stone shed and

there is an opening in Mill Road which would allow that connection.

While the applicant has suggested that there are no legal rights of access through the site, it is considered that access rights would apply to the site as noted in comments from the Countryside Access Officer. The erection of a house and the change of use of land to garden ground would remove those access rights by making the site residential curtilage. In considering the acceptability of that loss of access rights, it is noted that the path which runs alongside the western site boundary would be unaffected maintaining a convenient connection between Main Road and the graveyard and as such an alternative would continue to be available to the public in a similar location to the access route(s) which would be lost.

Policy TC2 indicates that proposals for new residential developments in development boundaries will be supported where the site is not protected for another use and is consistent with the character and pattern of development in the surrounding area. The policy also requires all proposals for new residential development to be compatible in terms of land use; to provide a satisfactory residential environment; not to result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and to include provision for affordable housing in accordance with Policy TC3 Affordable Housing.

The application site is located in a predominantly residential area and there are no conflicting land uses which would render residential use of the site unsuitable.

In terms of the residential environment to be provided, the plot would be comparable with others in the area. The dwelling would have a reasonable degree of privacy and a reasonable quantity of private garden ground. Adequate space would be available for vehicle parking and turning and bin and recycling storage.

The site is not subject of any designation for natural heritage and development of the site is unlikely to result in any significant direct or indirect impacts on the natural environment. A bat survey has been submitted and confirms low or negligible potential for the presence of bat roosting features in the trees at the site. The tree survey concludes that the trees proposed for removal are all are of limited ecological value. It is anticipated that the loss of trees at the site could be compensated for by the planting of native trees, shrubs and plants.

In terms of cultural heritage, the site is located within an area of local archaeological interest and the archaeology service has requested a planning condition requiring a photographic survey should planning permission be granted. They note an unusual carved stone surviving in the north boundary/retaining wall but suggest avoiding works to that part of the wall would avoid any interest being lost. The design of the proposed house would be broadly consistent with the character and pattern of development in the area and would provide an acceptable design solution as considered against the Design and Placemaking Supplementary Guidance. The proposed development would not result in any unacceptable direct or indirect impacts on cultural heritage or the built environment.

There would be adequate separation between the proposed dwelling and existing dwellings when assessed against council guidance. The balcony referred to in representations faces south towards Main Road and does not contain any useable outside space and is more akin to a Juliette balcony with a glass balustrade covering a patio style door at first floor level. There would be no unacceptable impacts on neighbouring residential amenity resulting from the proposal.

Access and parking arrangements are in accordance with the Council's standards. The Roads Service has reviewed the proposal and has raised no objections subject to the provision of suitable visibility on Mill Road.

The proposal is not of a scale or location where it would require a developer contribution or affordable housing when assessed against the Developer Contributions and Affordable Housing Supplementary Guidance and there is no reason to consider it would result in unacceptable impacts on other infrastructure.

Foul drainage would connect to the public sewer. Surface water would be managed by sustainable drainage within the site which is in accordance with Policy PV15.

In relation to material considerations, it is relevant to note that representations have been submitted both

in support and in objection to the proposal. The representations are material in so far as they relate to relevant planning matters and have been taken into account in the preparation of this report.

The objections make it clear that the area of amenity greenspace is valued by the local community and the foregoing assessment concludes that the proposal is contrary to local development plan policies designed to protect areas of open space from development for other purposes.

The proposed development would result in the loss of public access within the site. However, given the availability of a path immediately to the west, which provides access to the graveyard, it would not significantly affect the accessibility of the area as a whole. The comments regarding road safety concerns and related matters are noted but the roads service has reviewed the proposal and has offered no objection subject to conditions.

In terms of drainage, the house would connect to the public foul drainage network and Scottish Water has offered no objection to that arrangement indicating that there is currently capacity. Surface water arrangements would be regulated by Building Standards legislation.

In terms of impacts associated with the construction process, any noise or disturbance would be a relatively short term impact and it is not unusual for short term impacts of that nature to be experienced in existing built up areas. Other amenity impacts on neighbouring property have been assessed against council guidance but do not give rise to any unacceptable issues.

In terms of comments relating to a lack of need for the development, while there is adequate housing land available in south Angus at present, policies of the development plan do allow for sites in development boundaries to come forward in appropriate locations and where the site is not protected for another use. Reference is made to the previous refusal of planning permission for a house on the site in 2013. The issues identified in that refusal relating to loss of open space are also relevant to the current application.

With regards to subsidence in the area, the applicant has indicated that a structural engineer would be responsible for foundation design and the design and specification of necessary repairs to the existing retaining wall and existing masonry structures. This is also a matter which would be controlled through building regulations.

In terms of the degree of consultation with the church congregation, the application has been subject to the notification and publicity required by planning legislation. Impacts on the natural environment are discussed earlier in this report and having regard to the tree survey and protected species information submitted, there is no reason to consider that development of the site would give rise to unacceptable impacts on the natural environment.

The letters of support suggest that the site is brownfield land and previously contained a church hall. It is accepted that the site previously contained a building, but the site has been available to the public as open space for a number of years. In circumstances where there is already a shortfall of open space serving the area, its loss for the development of a private house does not comply with the open space approach set out in the local development plan. Comments relating to the site sale proceeds being reinvested into the church estate are noted but do not justify a departure from the development plan and no other material considerations are identified which justify a departure from the local development plan.

Paragraph 33 of Scottish Planning Policy states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In this case TAYplan is less than 5-years old but the ALDP has recently become more than 5-years old as it was adopted in September 2016. The policies contained in the ALDP are generally consistent with TAYplan and SPP and are therefore considered to provide an appropriate basis for the determination of this application.

However, having regard to the content of SPP and paragraph 29 in particular, this proposal is not considered to make a particularly significant contribution towards sustainable development. While there would be some potential economic benefit and a limited contribution to the delivery of accessible housing delivered by the proposal; those benefits would be at the cost of the quality of place and the health and wellbeing benefits offered by the area of open space that would be lost. There is adequate housing land

available in south Angus without the need to develop housing on areas of protected open space. In this case, the adverse impacts of the development significantly and demonstrably outweigh the benefits of the development when assessed against wider policies in the SPP.

In conclusion the erection of a dwellinghouse located on an area of protected open space is contrary to policies of the development plan. There are no material considerations which justify approval of planning permission contrary to the provisions of the plan.

Human Rights Implications

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

Decision

The application is refused.

Reason(s) for Decision:

1. The proposal is contrary to policies PV2 and TC2 of the Angus Local Development Plan (2016) because the development would result in the loss of protected open space and the proposal does not comply with any of the circumstances that allow for the loss of open space under Policy PV2; and is contrary to Policy TC2 because the site is protected open space and proposals for residential development in development boundaries are only supported where the site is not protected for another use.
2. The proposal is contrary to Policy DS1 of the Angus Local Development Plan (2016) because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2 and PV2.

Notes:

Case Officer: James Wright
Date: 22 November 2021

Appendix 1 - Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities

All proposals will be expected to support delivery of the Development Strategy.

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

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

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is

a need for the proposed development that cannot be met within a development boundary.

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

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

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

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

*Sharing an edge or boundary, neighbouring or adjacent

Policy DS3 : Design Quality and Placemaking

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

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

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

Policy DS4 : Amenity

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

Angus Council will consider the impacts of development on:

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

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

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

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

Policy TC2 : Residential Development

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

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

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

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

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

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

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

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

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

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

Policy PV2 : Open Space Protection and Provision within Settlements

Angus Council will seek to protect and enhance existing outdoor sports facilities and areas of open space of sporting, recreational, landscape, wildlife, amenity, food production, access and flood management

value. Development involving the loss of open space (including smaller spaces not identified on the Proposals Map) will only be permitted where:

- o the proposed development is ancillary to the principal use of the site as a recreational resource; or
- o it is demonstrated that there is an identified excess of open space of that type (backed up through an open space audit and strategy) to meet existing and future requirements taking account of the sporting, recreational and amenity value of the site; or
- o the retention or enhancement of existing facilities in the area can best be achieved by the redevelopment of part of the site where this would not affect its sporting, recreational, amenity or biodiversity value, its contribution to a green network, or compromise its setting; or
- o replacement open space of a similar type and of at least equal quality, community benefit and accessibility to that being lost will be provided within the local area.

Development proposals for 10 or more residential units or a site equal to or exceeding 0.5 hectares will be required to provide and /or enhance open space and make provision for its future maintenance. Other types of development may also need to contribute towards open space provision.

Angus Council will seek to ensure that 2.43 hectares of open space per 1000 head of population is provided*. The specific requirements of any development will be assessed on a site by site basis and this standard may be relaxed taking account of the level, quality and location of existing provision in the local area. In circumstances where open space provision is not made on site in accordance with the relevant standards, a financial contribution in line with Policy DS5 Developer Contributions may be required.

All new open spaces should incorporate the principles of Policy DS3 Design Quality and Placemaking, be publicly accessible and contribute to the enhancement and connectivity of the wider Green Network wherever possible.

*In line with the Six Acre Standard (National Playing Fields Association)

Policy PV3 : Access and Informal Recreation

New development should not compromise the integrity or amenity of existing recreational access opportunities including access rights, core paths and rights of way. Existing access routes should be retained, and where this is not possible alternative provision should be made.

New development should incorporate provision for public access including, where possible, links to green space, path networks, green networks and the wider countryside.

Where adequate provision cannot be made on site, and where the development results in a loss of existing access opportunities or an increased need for recreational access, a financial contribution may be sought for alternative provision.

Policy PV5 : Protected Species

Angus Council will work with partner agencies and developers to protect and enhance all wildlife including its habitats, important roost or nesting places. Development proposals which are likely to affect protected species will be assessed to ensure compatibility with the appropriate regulatory regime.

European Protected Species

Development proposals that would, either individually or cumulatively, be likely to have an unacceptable adverse impact on European protected species as defined by Annex 1V of the Habitats Directive (Directive 92/24/EEC) will only be permitted where it can be demonstrated to the satisfaction of Angus Council as planning authority that:

- o there is no satisfactory alternative; and
- o there are imperative reasons of overriding public health and/or safety, nature, social or economic interest and beneficial consequences for the environment, and
- o the development would not be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range

Other Protected Species

Development proposals that would be likely to have an unacceptable adverse effect on protected species unless justified in accordance with relevant species legislation (Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992) subject to any consequent amendment or replacement.

Further information on protected sites and species and their influence on proposed development will be set out in a Planning Advice Note.

Policy PV7 : Woodland, Trees and Hedges

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

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

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

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

Policy DS2 : Accessible Development

Development proposals will require to demonstrate, according to scale, type and location, that they:

- o are or can be made accessible to existing or proposed public transport networks;
- o make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances;
- o allow easy access for people with restricted mobility;
- o provide and/or enhance safe and pleasant paths for walking and cycling which are suitable for use by all, and link existing and proposed path networks; and
- o are located where there is adequate local road network capacity or where capacity can be made available.

Where proposals involve significant travel generation by road, rail, bus, foot and/or cycle, Angus Council will require:

- o the submission of a Travel Plan and/or a Transport Assessment.
- o appropriate planning obligations in line with Policy DS5 Developer Contributions.

Policy PV15 : Drainage Infrastructure

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

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

Outwith areas served by public sewers or where there is no viable connection for economic or technical

reasons private provision of waste water treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. A private drainage system will only be considered as a means towards achieving connection to the public sewer system, and when it forms part of a specific development proposal which meets the necessary criteria to trigger a Scottish Water growth project.

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

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

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

Policy PV8 : Built and Cultural Heritage

Angus Council will work with partner agencies and developers to protect and enhance areas designated for their built and cultural heritage value. Development proposals which are likely to affect protected sites, their setting or the integrity of their designation will be assessed within the context of the appropriate regulatory regime.

National Sites

Development proposals which affect Scheduled Monuments, Listed Buildings and Inventory Gardens and Designed Landscapes will only be supported where:

- the proposed development will not adversely affect the integrity of the site or the reasons for which it was designated;
- any significant adverse effects on the site or its setting are significantly outweighed by social, environmental and/or economic benefits; and
- appropriate measures are provided to mitigate any identified adverse impacts.

Proposals for enabling development which is necessary to secure the preservation of a listed building may be acceptable where it can be clearly shown to be the only means of preventing its loss and securing its long term future. Any development should be the minimum necessary to achieve these aims. The resultant development should be designed and sited carefully in order to preserve or enhance the character and setting of the listed building.

Regional and Local Sites

Development proposals which affect local historic environment sites as identified by Angus Council (such as Conservation Areas, sites of archaeological interest) will only be permitted where:

- supporting information commensurate with the site's status demonstrates that the integrity of the historic environment value of the site will not be compromised; or
- the economic and social benefits significantly outweigh the historic environment value of the site.

Angus Council will continue to review Conservation Area boundaries and will include Conservation Area Appraisals and further information on planning and the built and cultural heritage in a Planning Advice Note.



Friday, 16 April 2021

Local Planner
 Planning Service
 Angus Council
 Forfar
 DD8 1AN

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

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

Dear Sir/Madam

SITE: Rest Garden, Main Street, Barry, DD7 7RQ
PLANNING REF: 21/00279/FULL
OUR REF: DSCAS-0037846-CMX
PROPOSAL: Erection of a dwellinghouse

Please quote our reference in all future correspondence

[Audit of Proposal](#)

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:

[Water Capacity Assessment](#)

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in CLATTO Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

[Waste Water Capacity Assessment](#)

- ▶ There is currently sufficient capacity for a foul only connection in the HATTON PFI Waste Water Treatment works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

[Please Note](#)



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- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
 - ▶ Site Investigation Services (UK) Ltd
 - ▶ Tel: 0333 123 1223
 - ▶ Email: sw@sisplan.co.uk
 - ▶ www.sisplan.co.uk
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.



- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).

Next Steps:

▶ All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

▶ Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

▶ Trade Effluent Discharge from Non Dom Property:

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development



complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Pamela Strachan

Development Operations Analyst

Tel: 0800 389 0379

developmentoperations@scottishwater.co.uk

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."



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ANGUS COUNCIL

PLACE PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

21/00279/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

19	04	21
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Memorandum

Infrastructure
Roads & Transportation

TO: DEVELOPMENT STANDARDS MANAGER, PLANNING

FROM: TRAFFIC MANAGER, ROADS

YOUR REF:

OUR REF: CH/AG/ TD1.3

DATE: 27 MAY 2021

SUBJECT: **PLANNING APPLICATION REF. NO. 21/00279/FULL – PROPOSED ERECTION OF A NEW DWELLING HOUSE AT FORMER GARDEN OF REST, MAIN STREET, BARRY, CARNOUSTIE**

I refer to the above planning application which is similar to a previous application 13/01129/PPPL which was refused planning permission & 20/00860/FULL which was withdrawn.

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

The site is located on a corner site at the junction of Mill Road with Main Street, Barry. Both roads are subject to a 30mph speed limit. The proposed access to the site is located on Mill Road immediately adjacent to an outbuilding which will be used as a home office.

Submitted drawing no. 21_05_04 shows the proposed visibility sightlines at the junction of the proposed vehicle access with Mill Road. To the north-west a sightline of 2.4 x 43 metres is proposed and to the south-east, a sightline of 2.4 x 17.5 metres is proposed. Due to the presence of the junction of Mill Road with Main Street, the slow speed of vehicles in and around the junction I am satisfied that the proposed sightlines are acceptable.

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

- 1 That, prior to the commencement of house building, visibility splays shall be provided at the junction of the proposed access with Mill Road giving a minimum sight distance of 2.4 x 43 metres in a north westerly direction and 2.4 x 17.5 metres

in a south easterly direction from the nearside channel line of Mill Road, all as shown on drawing no. 21_05_04.

Reason: to enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.

- 2 That, within the above visibility splays nothing shall be erected, or planting permitted to grow to a height in excess of 1050 millimetres above the adjacent road channel level.

Reason: to enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.

- 3 That, the driveway shall be designed so as to prevent the discharge of surface water onto the public road. This shall include the provision of a cut-off drain at the end of the driveway if ground levels fall towards Mill Road.

Reason: to prevent the flow of surface water onto the public road in the interests of traffic safety.

- 4 That, an advisory, informative note be added to the decision notice to inform the applicant that the verge crossing at the proposed access must be formed and constructed in accordance with the standards of Angus Council.

An application form can be downloaded from the council's website for the purpose.

I trust the above comments are of assistance but should you have any queries, please contact Adrian Gwynne on extension 2036.



From: [Claire Herbert](#)
To: [PLNProcessing](#)
Cc: [WrightJ](#)
Subject: Consultation 21/00279/FULL - Archaeology response
Date: 23 April 2021 10:12:34

Planning Reference: 21/00279/FULL
Case Officer Name: James Wright
Proposal: Erection of Dwellinghouse
Site Address: Rest Garden Main Street Barry
Site Post Code:
Grid Reference: NO 5366 3441

Thank you for consulting us on the above application, which affects the archaeology site NO53SW0128, the remains of a church hall (formerly a school) and garden dating to the 19th Century located within the historic core of Barry (NO53SW0054). If the application is minded for approval, I would ask that the following condition is applied to all buildings, structures and garden features (e.g. the sundial and any other features):

Photographic survey

No demolition or any other works in connection with the development hereby approved shall commence unless a photographic survey of the existing buildings and structures on the application site has been submitted to and approved in writing by the planning authority. All external and internal elevations of the buildings and structures together with the setting of the buildings and structures and any unusual features of the existing buildings and structures shall be photographed. The photographic viewpoints must be clearly annotated on a plan to accompany the survey. The photographs and plan must be in a digital format and must be clearly marked with the planning reference number.

Reason: To ensure that a historic record of the building is made for inclusion in the National Monuments Record for Scotland and in the local Sites and Monuments Record.

Should you have any comments or queries regarding the above, please do not hesitate to contact me.

Kind regards,
Claire

Claire Herbert MA(Hons) MA MCIfA

Archaeologist

Archaeology Service, Planning and Environment Service, Infrastructure Services
Aberdeenshire Council, Woodhill House, Westburn Road, Aberdeen, AB16 5GB

T: 01467 537717

E: Claire.herbert@aberdeenshire.gov.uk

W: <https://www.aberdeenshire.gov.uk/leisure-sport-and-culture/archaeology>

W: <https://online.aberdeenshire.gov.uk/smrpub>

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From:Claire Herbert
Sent:Thu, 4 Nov 2021 16:57:10 +0000
To:James Wright
Subject:21/00279/FULL - Archaeology - additional comments

21/00279/FULL | Erection of a dwellinghouse | Rest Garden Main Street Barry

Dear James,

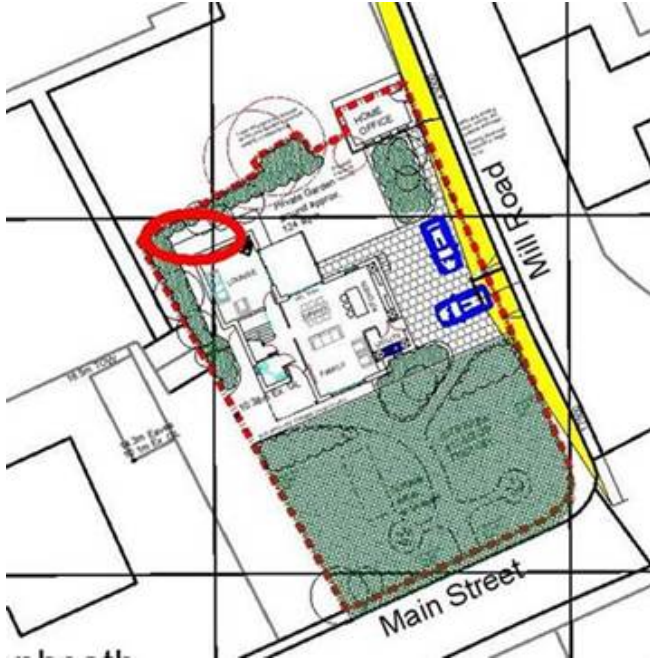
Subsequent to my earlier comments on the above application, over which we have a requested a Photographic Survey condition, it has been brought to our attention that there is an unusual carved stone surviving in the north boundary/retaining wall (see images below, stone at circa NO53643442, circled in red on plan □ the wall forming part of Angus HER site NO53SW0128).

It does not appear that any works are proposed to this particular section of the wall, but I would appreciate if you could bring this stone to the attention of the applicant. If works are proposed to this section of the wall, we would ask that care is taken not to damage this stone.

The exact age and function of the stone is not known, but it may be a fragment of a gravestone or a mason□s test piece and may date to the 17th or 18th Century.

Kind regards,

Claire



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Claire Herbert MA(Hons) MA MCIfA

Archaeologist

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W: <https://online.aberdeenshire.gov.uk/smrpub>

Archaeology Service for Aberdeenshire, Moray, Angus & Aberdeen City Councils

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□ S e beachdan an neach a chuir am post-dealain a tha ann an gin sam bith a thèid a chur an cèill agus chan eil e a □ ciallachadh gu bheil iad a □ riochdachadh beachdan Chomhairle Shiorrachd Obar Dheathain.

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From:Paul R Clark
Sent:12 May 2021 18:32:48 +0100
To:James Wright
Subject:21/00279/full - site at rest garden, Main Street, Barry

James

I refer to your consultation regarding the above.

I note that representations have been received regarding access rights and possible public rights of way on the site. I also note that the applicant has supplied a solicitor's letter stating that the ground is not subject to any public rights of access or public rights of way.

The solicitor's letter does not explain why they concluded that no public rights of access exist. The conclusions appear to be based on examination of titles. Title deeds cannot however be relied on to determine whether public rights of access exist over land. Public rights of way established by prescription, and access rights under the Land Reform (Scotland) Act 2003, can exist over land regardless of any rights that may or may not be identified in title deeds.

In my opinion access rights under the Land Reform (Scotland) Act 2003 currently apply to the site. Access rights apply to all land, unless it is a category of land that is specifically excluded from access rights under section 6 of the Act. The land in question does not fall into one of those categories.

The fact that the public can currently use the land as a matter of right under the above legislation may be relevant to consideration of whether the site can currently be regarded as public open space, and whether the proposed development will therefore result in loss of public open space.

A number of possible public rights of way over the site have been highlighted in representations. Further investigation, including gathering of witness evidence,

would be needed before forming an opinion on whether any of the routes meet the necessary common law criteria for a public right of way to have become established by prescription. Given the short distances involved and the availability of alternative routes on immediately adjacent ground, this is not something that we would propose to investigate further.

The proposed development would result in the loss of public access within the site, including a number of short paths. However, given the availability of a path immediately to the west, which provides access to the cemetery, it would not significantly affect the accessibility of the area as a whole.

If the development is approved I would recommend that it is conditional on there being a continuous fence, wall or hedge between the site and the adjacent path. This would define the extend of private garden ground and protect both public access over the path and the privacy of the dwelling.

regards

Paul Clark | Countryside Access Officer | Angus Council | 01307 491863 | clarkpr@angus.gov.uk | www.angus.gov.uk

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Subject:FW: Planning Application 21/00279/FULL

From: Jutta Scharnberger <ScharnbergerJ@angus.gov.uk>

Sent: 25 May 2021 16:43

To: James Wright <WrightJ@angus.gov.uk>

Subject: RE: Planning Application 21/00279/FULL Legal Comment

Hi James

After reviewing these development proposals we do not consider this having undergone a material change and therefore our comments are still valid.

We would still object to this application on the grounds of loss of open space, taking into account that this ground and the churchyard are the only areas of open space in Barry. Additionally the Carnoustie and Barry neighbourhoods combined show an underprovision of open space generally so the development area should be preserved for the use of the wider community.

We would also like to stress again that if planning permission should be granted the following points need to be ensured:

1. The boundary retaining wall between the development area and Barry Churchyard needs to be protected during the construction works to maintain its structural integrity.
2. The home office planned in the former hall store would share one wall with the existing retaining wall of the churchyard. The ownership of this section needs to be verified before building works commence and building works must ensure that the structural integrity of the wall is not compromised.
3. Pedestrian access to the churchyard from the south must be safeguarded at all times.

Kind regards

Jutta

Jutta Scharnberger | Team Leader Landscape Services | Angus Council | Environmental Services - Parks
| Tel: 01307 492457 | scharnbergerj@angus.gov.uk | www.angus.gov.uk

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Comments for Planning Application 21/00279/FULL**Application Summary**

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Edwin Hughes

Address: 28B smieton street Carnoustie DD77NA

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Being an Elder and Fabric convenor of Barry Parish church, and church member for over 46 years, I would have no issues with planning permission given for erection of a dwelling.

The west garden has never been known as a

"Rest Garden", only by a few village residents, who thought they could claim it as their own. How nice it would be to see it used as a family property, and well looked after.

Regards, Eddie.

Comments for Planning Application 21/00279/FULL**Application Summary**

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Edwin Hughes

Address: 28b Smieton street Carnoustie DD7 7NA

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:As a member of Barry Church and, once a resident in the village of Barry, before and after the demolition of the village hall that once stood on the plot of land in question, there has never been a public path through the garden. this has been used by some residents of the village as a short cut from Main Street Barry to the cemetery and to the Grange of Barry Road. Hope permission is granted to make this unused land a pleasant sight.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Hugh McKenzie

Address: 1 Hillview Barry Carnoustie DD7 7RU

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The application for a dwelling house on this piece of land should be granted.

Many years ago, Barry Church Hall was built on this land and it had all the services required for a usable building. The only reason it was pulled down was due to the end wall having a structural fault and it was never re-built.

Since there was a building on this site previously, I see no reason that another building should not be erected.

Proceeds from the sale of this land for a dwelling house are desperately needed to secure a longer life for Barry Parish Church. If the planning approval is not granted, this means that the Church will be in grave danger of closing.

If Barry Parish Church closes, there will be another unused church building which nobody wants, which will run into disrepair, with no prospects of development. This also means that the land which you call Rest Garden, which was never in fact a garden, will also become an eyesore as no one will look after or maintain it.

Surely it is better for an individual home in keeping with the local area to be built on this land, than to let it go to rack and ruin. This is beneficial for the person who would like to build in Barry and also Barry Parish Church, as we need funds to keep our church open. It would also be beneficial for the community of Barry Village to keep the church open.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Janet Scott

Address: 'Strathmore' Main Street Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The revised plan for the proposed dwelling house is very much in keeping with the style of home in the village at present. In the footprint of the former West Church Hall, it would be appropriate for this to become a family home. The larger area of the site, to the front of the house and nearest to the main street, is to be landscaped and will preserve its open aspect, so the proposal would not impact negatively on the visual appearance to the street. There would be a significant improvement overall from the current appearance.

As is noted in the site analysis, the site has become overgrown due to lack of maintenance. Debris and rubbish were noted to be present.

Please also see the document related to this application 'Comments from Congregation Barry Parish Church'.

I live close to the site. Since 2013, apart from from Barry Parish Church members or the Community Payback Team tidying the site, I have only rarely seen anyone actually using the site for any reason. I have lived here for 27 years.

Residents may wrongly assume that the Church no longer owns the land and that it can be used for any purpose without permission of the owning body.

I am therefore strongly in favour of this application.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Kate Hall

Address: Pentland Cottage Main St, Barry Carnoustie DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Given that this ground has been open and freely available for public use since the demolition of the church hall in the 1980s it is clear that it is subject to Access Rights as set out in section 1 of the Land Reform (Scotland) Act 2003.

Furthermore, a servitude Right of Access exists across the whole area, having been created by "continuous possession for 20 years openly, peaceably and without judicial interruption" (s 3, Prescription and Limitation (Scotland) Act 1973). This right will pass with the title.

In addition to this there are multiple paths across the site which qualify as Rights of Way. The criteria for qualification, as defined by ScotWays (The Scottish Rights of Way and Access Society) are:

- It must join two public places (e.g. public roads or other rights of way); and
- It must follow a more or less defined route; and
- It must have been used, openly and peaceably, by the general public, as a matter of right, i.e. not just with the permission of the landowner; and
- It must have been used without substantial interruption for at least 20 years.

These are all amply met.

I have created a separate document detailing these routes which has been submitted to Angus Council planning dept, and have applied for them to be registered with Scotways as soon as possible.

The Land Reform (Scotland) Act 2003 section 13 says that "it is the duty of local authorities to

AC10

uphold access rights" and it is obvious that approval of this planning application as it stands would be in direct contradiction to that duty.

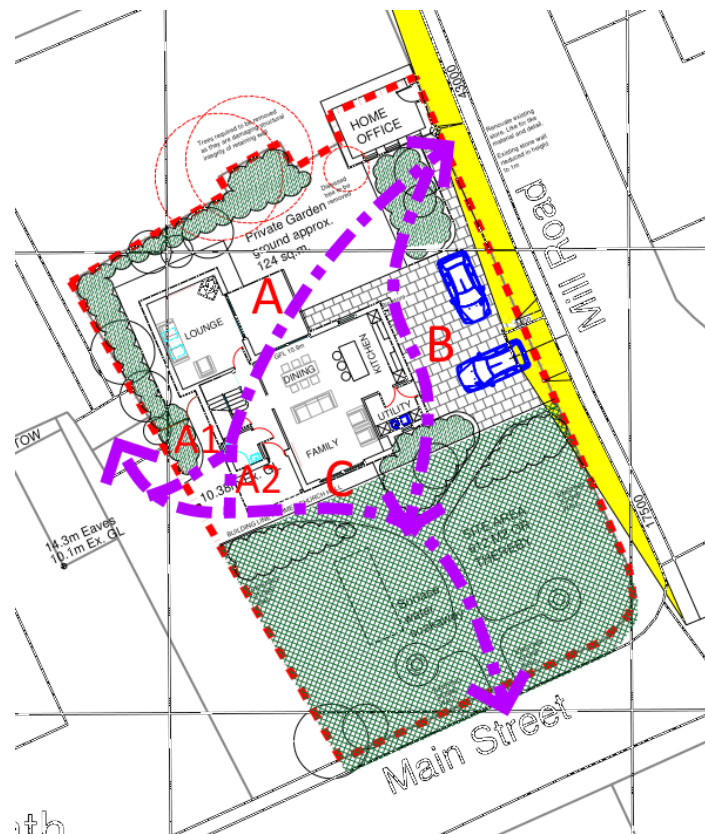
The application must not be allowed to proceed any further unless these Access Rights, Rights of Access and Rights of Way are upheld.

Rights of Way, former Church hall and garden, Barry, DD7 7RP.

There are multiple paths across the site which qualify as Rights of Way.



These are currently under threat from a proposed private housing development (reference: 21/00279/FULL | Erection of a dwellinghouse | Rest Garden Main Street Barry) as shown in this overlay image:



The criteria for qualification, as defined by ScotWays (The Scottish Rights of Way and Access Society) are:

- It must join two public places (e.g. public roads or other rights of way); and
- It must follow a more or less defined route; and
- It must have been used, openly and peaceably, by the general public, as a matter of right, i.e. not just with the permission of the landowner; and
- It must have been used without substantial interruption for at least 20 years.

These conditions are all amply met.

Routes A and B were created by the demolition of the Church hall (sometime in the 1980s).

Route C has existed since the hall was built, and was refurbished in the 1990s.

There has never been any restriction to use or access of these routes and they are all used on a daily basis and have been since their creation.

These photographs show the definition of the routes:

Route A:

Access from Mill Rd



Overview of route A showing line of sight through to the path that connects with the steps.



Detail showing the two exits from route A.



Exits A1 and A2 as seen from the south.



Route B is a less well defined route, a trampled path through the grass. There are several meandering options you can choose across the grass really, but this is the most obvious.

Route B:
Looking North



Looking South



Route C:

Linking Main St to the path up to the steps.



Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Michael Goss

Address: 44 Terrace Road Carnoustie DD7 7AR

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I write in support of the application and to rebut the rather ridiculous claims by Kate Hall. This is the first mention of 'Right of Way' claim, and there is no evidence provided of regular or continuous use by the public over the past 20 years. Two of the 'paths' are not even paths at all, but simply open space or (overgrown rather than trampled) grass. All routes can be circumvented by taking the maintained pavement around the sides of the property.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Mike Hall

Address: Pentland Cottage, Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Attention must be drawn to the proposed required vehicle access sightlines.

The car symbol is drawn backwards on the drive to show site lines. ie: car the wrong way round.

The developers have purposely shown the sightline from a person sitting in the rear parcel shelf of the car. If the car symbol is spun around on it's centre axis you lose the 43mtr sightline.

Furthermore, if you then move the car forwards to include the whole front windscreen at the conjunction of the sightlines, thus gaining the required 43mtrs, the bonnet is sticking into the road by some distance. This is based on a CAD symbol of a generic car, but many modern saloon cars have a combined windscreen and bonnet length in excess of 2.2mtrs.

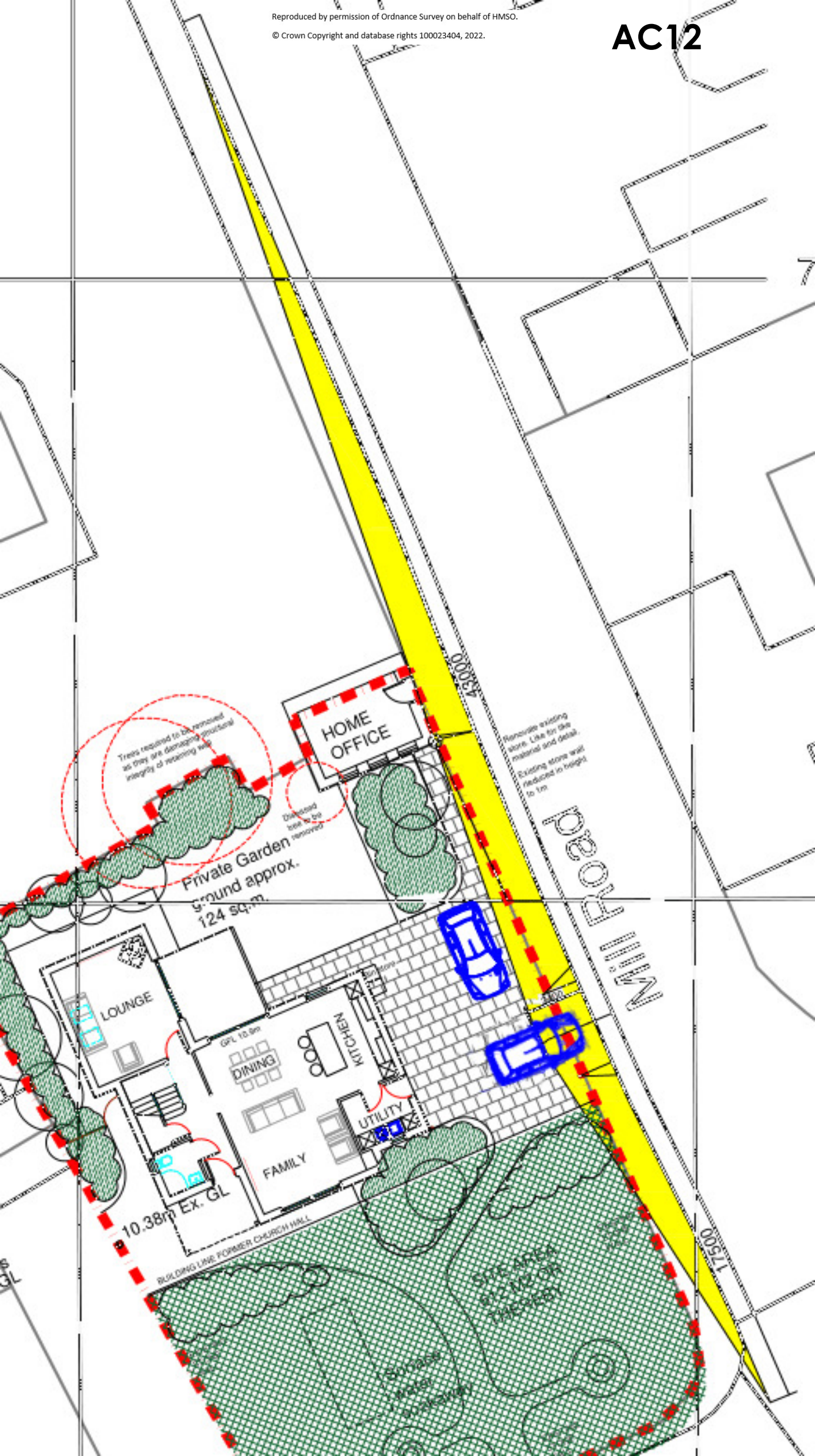
The front Garden area is to be retained as a Private Garden which will benefit the village street scape. What is there to stop the first residents erecting a high fence or hedge and remove the garden view? What measures are there to stop the householders replacing the garden with, for example, a paved area for extra parking.

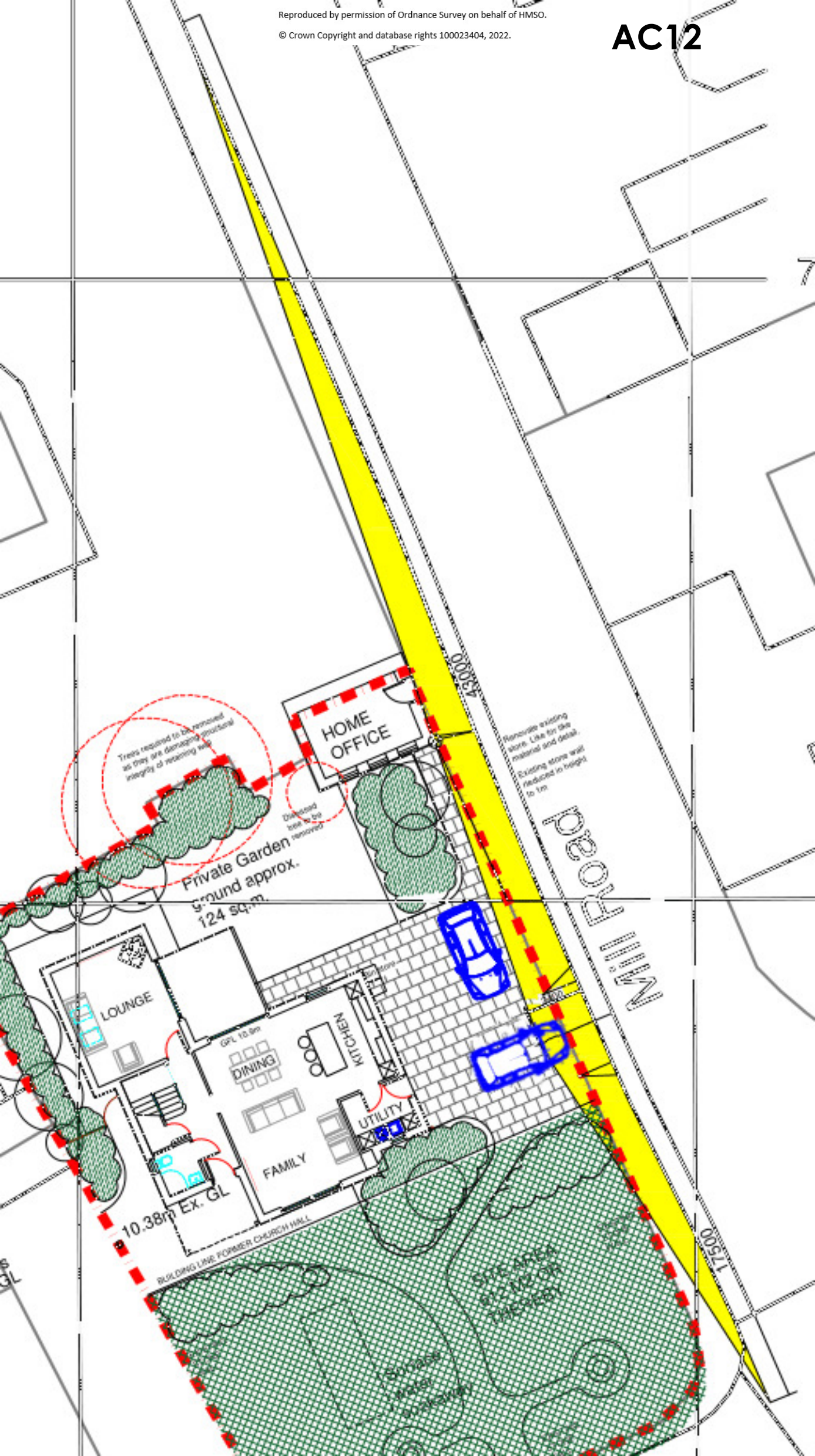
Also, regarding the assertion of fly-tipping. The garden is unkempt but has never suffered fly tipping.

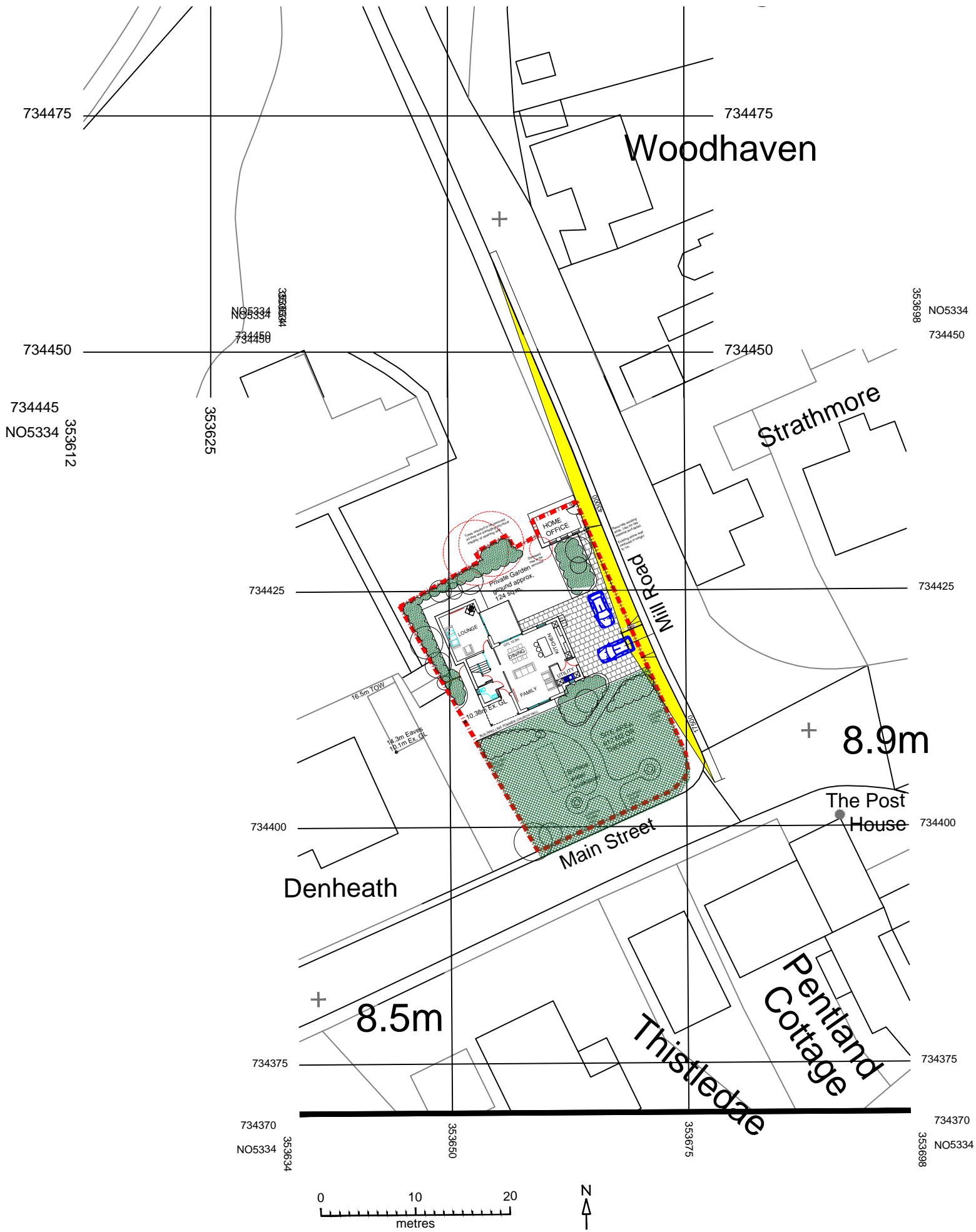
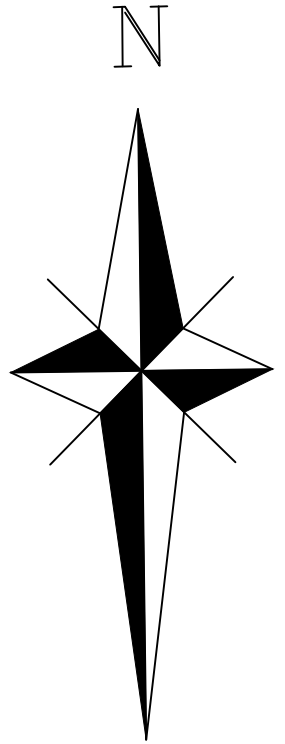
Regarding the last paragraph of 'Provision of Open Space' in the Design & Access Statement: "As evident from the above image there is clearly ample open space adjacent to the development site." The satellite image shows there are many fields surrounding Barry. These are mainly working Farms with little public access, and often un-walkable due to crops. However, it is true that the community was given the opportunity to buy the garden but this sadly, came to nothing.

A recent planning refusal for new houses in Monikie (20/00636/PPPL) stated on the Decision Notice that "there is expected to be a surplus of housing in south Angus once developments are complete in the next few years...." There are hundreds of houses being built now at Pitskellie.

The need for a house on this site is less than the Churches need to raise money.







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Revision _____ Date _____

Susan Burness Architect Susan Burness Director Tel. 01241 860244 Mob. 07887686105 E mail sburness@sky.com			
Farmhouse Fairfield Mains Garryne Arbroath DD11 3RX			
Client S & R Developments (Arbroath) Ltd			
Project New House on site of Former West Church Hall			
Title Site Plan			
Arbroath		Telephone 01241 860244	
Drawn SB	Date 24_02_21	Drg Size A3	Checked
Job No. 20_05		Scale 1:500	
Drg No. 21_05_04			Rev

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Mike Hall

Address: Pentland Cottage Main Street Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Church's 2013 attempt to gain Planning Permission in Principle (13/01129/PPPL) for the Garden created a huge amount of anger toward and apathy for the Church within the village.

A member of the Church council at the residents meeting remarked to us that "The Village doesn't care about the Church so why should the Church care about the Village?"

Also, we were told that the residents had no right to maintain the garden. The church has never formally stopped anybody accessing the site for this purpose.

Regarding the following comments from Supporters:

"the church is in desperate need of money and there is a real possibility that it would have to close, which would be a blow to Barry and its congregation"

"Surely it is better for an individual home in keeping with the local area to be built on this land, than to let it go to rack and ruin... It would also be beneficial for the community of Barry Village to keep the church open"

The Church themselves has let the garden decay by refusing to pay for a local gardener to maintain it. What benefit would the continued existence of the Church in Barry have, when it is inevitable that this Church will fully merge with Carnoustie.

The Church could have used the site to create something of benefit to Barry, or maybe a small convalescence home.

Regarding the 2013 application, this is the outcome:

Report of Handling for the Planning Permission in Principle - 13/01129/PPPL. Refused on 13/03/14

1. That the application is contrary to Policy SC32 of the Angus Local Plan Review 2009 as the

proposed development would result in the loss of an area of open space that contributes positively to the streetscene and provides a usable and valuable area of amenity space for the village of Barry.

2. That the proposal would be contrary to Policy S1 criterion (a) of the Angus Local Plan Review because it fails to be compatible with other policies of the local plan, namely Policy SC32.

Nothing has changed to alter this decision.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr M Hall

Address: Pentland Cottage Barry DD77RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Some final thoughts to the response from the developers and Church.

Regarding the attempt by the developers to show two areas of 'Open Space' which may be used for areas of recreation. One is the private garden of the house opposite and the other is used by a local gardener and landscaper to grow crops and raise pigs. Neither have ever been considered as recreational areas by residents.

The statement that "The site is rarely used by the community....." is simply untrue. Anybody who lives here and overlooks the garden can see that folk enter the garden all day long as part of their walks, or stop for a few minutes rest.

As has been pointed out, the garden was at one time laid out as a memorial garden for a former Rev. Stewart and his wife. The Church obviously intended for it to be used by residents and visitors as an area to sit and enjoy. Since the memorial sign was removed there has never been attempts to stop the continued public use of the site.

Indeed, something must be done with the garden but the demolition of the Hall in the 1980s and the Church's disastrous 2013 attempt to gain Planning Permission in Principle before trying to sell the garden, destroyed any hope of community engagement with the Church. Both of which were done without any consultation with the residents of this Parish.

The Church of Scotland currently has over 30 properties and plots of land for sale. They should seek to attract a newer congregation, who are willing to support the Church rather than constantly look to raise funds through these sales.

The current Church building is on the outskirts of Barry, it does not physically or psychologically

connect with the majority of the village and its closure, though regrettable, would not affect the lives of many in community.

21/00279 Objection.

The latest and final comments from the developers need some clarification.

The 'Comments & Images' from 2nd August do indeed show the garden site in a poor state. This is wholly down to the Church's abandonment of the garden. The Church is unwilling, rather than unable to maintain this area.

Regarding a comment submitted on the 29th April by a Member of the Church that there has never been " A public path through the garden....".

I feel that the attached drawing of 1900 showing the proposed Church Hall layout, superimposed on the former, much older school building, clearly shows paths and gateways (plus a new gateway to the South) in the boundary walls of the garden which were obviously intended to be used as thoroughfares.

If this proposal is granted then the Church of Scotland's only legacy to the village will be the loss of what was once a lovely and peaceful garden space.

Mike Hall.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Shirley Murison

Address: Ravensby Road Carnoustie DD77NW

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am in support of proposed erection of house on the above site.

There was a hall there before so services were there. The area has been left to vegetation and an eyesore due to an older congregation this being more difficult to maintain.

It would be in the best interest of the Church if permission was granted for a dwelling house on this land

it would enhance this corner.

It was never a rest garden and the villagers were given the opportunity a few years back to purchase it and maintain it but was never taken up.

I walk this area daily and never see anyone using it for recreation.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Rosemary Docherty

Address: 139 Barry Road Carnoustie DD77QT

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I support the house which is to be built on the site of the West Church Hall.

The area has become very overgrown and neglected, with rubbish and debris at the back wall.

The church has an ageing congregation who are unable to maintain it.

The villagers have had ample opportunities to attend to it, but this has not happened, nor do they appear to use it for any activities.

The house is to have a landscape garden at the front, which would be much more attractive than the eyesore that the site has become.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Rosemary Docherty

Address: 139 Barry Road Carnoustie DD77QT

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I omitted on my previous comment that the church is in desperate need of money and there is a real possibility that it would have to close, which would be a blow to Barry and its congregation, so I hope you will look favourably on this application

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Miss Susan Killean

Address: The Church of Scotland Law Department 121 George Street Edinburgh EH2 4YN

Comment Details

Commenter Type: Miscellaneous

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I act as Solicitor to the Church of Scotland General Trustees as current owners of the ground on which the former Church of Scotland West Hall once stood in Main Street, Barry and also for the Barry Church of Scotland Congregation the previous owners and current occupiers of the ground.

It has been brought to my attention that as part of the planning application 21/00279/FUL, a member of the public appears to consider that there is a right of way over the property and/or that the public have Access Rights over it. The situation is that when the former Hall was demolished, the Congregation arranged for the ground to be laid out as a garden and permitted the local community to take access to it. The Congregation could have, at any time, closed off the area and prevented access to it. Where access is given with permission there is no question of the creation of rights under the Prescription and Limitation (Scotland) Act 1973 or the creation of a Right of Way. Any use over the years has been with permission.

I should be obliged if you would note the above and that the current application for planning appears to be sympathetic to the area and a good use of the ground.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Colin Henderson

Address: 2 Constable Place, Mill Road, Barry, Carnoustie Carnoustie DD7 7RQ

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the current house proposal for the site on Rest Garden, Main Street, Barry. I want to highlight the safety aspects of the proposal. For anyone actually living on Constable Place / Mill Road would agree that cars & tractors do not hang about and are heard and seen moving very quickly up towards Barry Mill. This is a very popular road with dog walkers & locals visiting Barry Mill as well as horseback riding, by adding a third entrance close to the foot of the road is a recipe for a serious accident. The junction to Constable Place is already a dangerous spot with an entrance at 1 Constable Place & also a blind driveway entrance at 2 Constable Place. The entrance to Mill Road is very open and many times vehicles actually cut the corner without any hesitation for anyone else coming down Mill Road. From the plans I don't see it's a safe area to enter the dwelling by the proposed entrance. I already struggle to park my car and often straddle the whole road reversing into the drive due to the road not being wide enough. I would like to add that the previous owner of 2 Constable Place looked after the rest area with other locals, unfortunately due to ill health he had to stop & from then it has been poorly maintained. Regarding the proposal, I have witnessed a number of recent house builds where spaces are limited, although the plans are very impressive, I would be very interested to know the exact height of the proposed house. I anticipate it be close to the actual height of 1 & 2 Constable Place, this for sure would severely restrict sunlight into both properties in the winter & summer months. Perhaps a single storey property would be better suited providing that the entrance to the property is not on Constable Place.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Miss Melanie Webb

Address: Denheath Main Street Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this planning permission because it will completely remove the visual amenity of the area. The appearance of the current proposals are also completely out of character with the rest of the properties in Barry.

These proposals will also create a higher volume of vehicles on the road during the construction process and also when there are new residents.

This is the only green area of Barry which is left for the community and it has a great deal of history which should not be taken away from the village.

The area has never been used for fly-tipping and those accusations are completely untrue. It is an area that is enjoyed by the people of Barry and its visitors. I live immediately adjacent to the garden and can confirm that claims that people don't use the area are completely untrue. This area is used regularly, more so in the summer time (as any garden would be). People sit on the chairs in the garden and sometimes sit on the grass during the nice weather. People also use the paths daily - and these are definitely paths, not overgrown areas as claimed.

I also have great concerns regarding our privacy. The new house will have a balcony which will partially overlook into our back garden. This is unacceptable.

Many of the supporting comments come from residents who do not live in the immediate area but are Church goers, who are not interested in the area at all and are only looking at the interests of the church.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr William Webb

Address: Denheath Main Street Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this planning permission of the new build which will have a balcony whose side view will overlook our garden, taking away our privacy as we live immediately adjacent to the site.

Planning permission was previously refused for this area, therefore, the same reasons should still apply.

This is the only green area left in Barry as nearby areas are all working fields. The proposals would also create a loss of light to the surrounding areas.

The area holds a strong visual amenity which will completely be taken away should proposals be allowed to go ahead.

I have great concerns during the construction process as there is a bus stop immediately opposite the property on a very narrow main road.

I have concerns during for the construction process for my own property due to dirt, dust and hazardous materials.

The church should listen to what the people of Barry want instead of trying to make a profit from selling the land. It might be worth Angus Council taking over this area to revert it back to the lovely garden it once was. Lots of other towns and villages have green areas, this is the only area that Barry has left. We want it to remain an attractive village.

Many of those supporting this planning permission do not live in Barry village and have no idea whether the area is ever used. It is used regularly in summer time. These supporters are mostly church goers who want funds for the church regardless of the strong feelings of Barry residents. There is already more than enough adequate housing in Angus.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr allan buick

Address: 1 constable place carnoustie dd7 7rq

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this proposal

1/ poor lighting and no pavement presents a danger to all pedestrians both young and old alike. So an other entry on to mill road only creates more danger

2/ this proposal is not sympathetic in design with surrounding properties

3/ this is the last public green space in Barry shown are fields the cemetery and private land

4/ having lived next door for 35 + years there has never been a problem with fly tipping as has been suggested

5/ the garden though not looking there best because of winter has been tended by Johns garden services a few times a year i have personally cut the grass 5 times last year along with other locals in the borders so it has not been totally ignored as suggested

6/ within an 8 minute walk or a 1 min drive there is a development which is to build in excess of 250 new houses that will put tremendous strain on local amenities schooling and local medical services so that leaves no need for further housing in the rest garden

7/ Council adoption of the green site would be a far better option as people would be able to meet and the many children

of Barry would have somewhere to play a park would be better than a house

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Allison Buick

Address: Constable Place Barry Carnoustie DD7 7RQ

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this planning application for several reasons

1. Access in and out of the property would be at a dimly lit area with no footpath which would be very dangerous for the many school children coming down Mill Road in the dark mornings. Sadly because the church needs money is no comparison to a child's life.
2. This is the only area of green belt left in the village. Areas of green belt highlighted on the online map are fields belonging to local farmers and a cemetery. At this time I would like to point out that more houses are being built just a minute drive and a 10minute walk away from this application.
3. I also object strongly to the online photos of fly tipping. I have lived here for nearly 40 years and I have NEVER seen fly tipping.
4. Previous efforts to encourage community involvement has been unsuccessful utter nonsense. The rest gardens were maintained in good order by the residents of the village. Grass cut, flowers planted and borders weeded and seating in place for the elderly and the needy until at the 2014/2015 meeting (described on page 4) when residents of the village were told to stop by an elder of the church and this is when it developed into the unkempt state it is in now.
5. By no stretch of the imagination can it be said that the first floor balcony does not infringe the privacy of the neighbours. Looking straight ahead looks into the bedrooms of Main Street properties and also the properties to both the left and right of the balcony

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Laura Webb

Address: Denheath Main Street Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this planning as the new build will have a balcony where the side part will overlook our back garden, taking away our privacy.

Concerns regarding subsidence as the previous building was demolished for this reason. Also concerns with regards to drainage which is already a problem in Barry.

The house will be opposite a bus stop on an already very narrow road.

The area is the only area of Barry with visual amenity. The proposed house looks out of place and is too big. Despite claims, the area is NOT used for flytipping, however, it has been left unkempt.

Angus Council should take over the maintenance of this & retain it for the community & visitors alike to enjoy. Sadly, the church is only looking to sell this land to raise funds, it is of no benefit to the community or the people of Barry whatsoever. This is why most of the supporting comments are coming from residents in Carnoustie - they are church goers & are not interested in Barry village.

There are no other easily accessible green areas nearby as they are all working fields. The proposals would also mean the loss of several trees in the area.

There will be more traffic on the road during the construction process on an already very busy junction, again, next to a bus stop. The construction vehicles will also cause major disruption to the area & a very narrow bus route, which is a main road. There will also be increased traffic once new residents have moved into the property.

Living immediately next to the proposed area, we are very concerned about the noise & disturbance & any hazardous materials. Also dirt & dust to our home, cars, local area & wildlife etc.

The garden is used regularly, particularly in summer. The residents of Barry have helped to look after this over the years as the church haven't. The church have taken over the maintenance of the garden again but have done nothing to keep it tidy.

There is already adequate housing in the south of Angus.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Carol Venables

Address: 1A Knowes Loan Barry Carnoustie DD7 7RF

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this proposal, the rest gardens up until people were told not to tidy were kept tidy and enjoyed by the local community. They were colourful with flowers which everyone could enjoy and its a place to help wildlife. Houses are being built on every bit of green space there is in Carnoustie and surrounding areas and it should be halted. Barry is a small village, the position of proposed house would cause privacy issues with neighbours, traffic problems thru village while construction took place, noise whilst constructed and sight issues for traffic on and out of Mill Road. There has never been a flytipping problem

It is the only piece of communal land in Barry and needs to stay as such

I understand the church congregation supporting the plans on the whole do not live in Barry, the residents of Barry should be listened to and be allowed to continue to use garden for relaxation, contemplation, meeting friends outside and just enjoying the space with flowers and wildlife

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Simon Scott

Address: Strathmore Main Street Barry DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: In response to some of the comments

To suggest that the design is not sympathetic or in keeping with the surrounding properties is disingenuous as the village is a complete mish mash of designs, there are hardly two the same. The drive exit would be unsafe due to poor lighting and the road width, with two exits already there why would a third suddenly make it more dangerous.

I would dispute that there is a lot of use of the garden for recreation in the summer as I have only rarely seen people using it.

When the Church tried to sell the site in 2015 there was a movement by villagers to try and take it over for community use which was very laudable but very few residents in the village were bothered enough about it to stand up and be counted.

To say that the Church 'could have used the site to create something of benefit to Barry or maybe a small convalescence home' is somewhat confusing. It ignores the fact that the Church has no money, hence trying to sell the land and that if a convalescent home was to be built all the same objections could be raised about the planning application for it.

The resident mentioned who maintained the garden was being paid to do so by one of the Church members and also used the area for growing vegetables.

It would be nice if it could remain an open area for the community but the harsh reality is that the Church cannot afford to maintain the area in a manner that is appropriate and therefore is unable to ensure the safety of users.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mrs Frances Bell

Address: Lower Mill Cottage Barry Carnoustie DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this application.

I stay 50yards from the site of the "rest garden" and my driveway exits onto Mill Road.

The plan for the house does not give dimensions but the vehicle access appears extremely close to the junction of Main Street and Mill Road. Also vision from the site would be impaired looking north due to the height of the graveyard.

The junction of Mill Road and Main Street is already very dangerous because of vehicles cutting the corner and Mill Road is devoid of footpaths.

The driveway appears to be exactly opposite the existing driveway of the lower flat at Constable Place where they have to reverse park and it would also impact on parking for the upper flat.

The house seems quite high and would impair light during the afternoon and evening for both flats. The height of the balcony on the south elevation would mean loss of privacy for Pentland Cottage, Royston Grange, Thistledene, The Old Post Office and Denheath.

The house is by no means similar in design to other houses on Main Street. I do not know of any other house with a balcony.

The problem with the old West Church Hall and indeed the West Church was lack of parking space and if planning permission were granted would envisage multiple vehicles parking on Mill Road and Main Street during the construction phase.

The site would be best suited as it is at present as a "rest garden" for both pedestrians and graveyard visitors alike.

Comments summary

Dear Sir/Madam,

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 10/05/2021 7:13 PM from Mr Frances Bell.

Application Summary

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

[REDACTED]

[REDACTED]

[Click for further information](#)

Customer Details

Name: Mr Frances Bell

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comments Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Reasons for comment:

Comments: I object to the proposal.
 The junction of Mill Road and Main Street has no pavements, vehicles coming from the east constantly cut the corner - often at speed (new 20mph limit ignored by many). There are already two entries on the east side of Mill Road at Constable Place, I feel it would be ill advised to position a further entry on the opposite side at the proposed site, which in my opinion is not suitable at any point for vehicle entry/exit based on safety grounds for pedestrians and vehicles alike.
 I would also point out that seven properties would be affected by infringement of their privacy, light and view - four to the south, two to the east and one to the west.
 I note that the majority in favour of the plans are Barry Church members, none of whom live close to the site, with the exception of two, one of whom holds a position of authority in the church, so would obviously be biased.

The site has been used by villagers and churchgoers for around thirty years and there has never been concerns regarding health and safety until now.

The nearest greenspace from the village is Barry Mill however it is unsuitable for the elderly and disabled due to poor pathways and slip and trip hazards. It is also 1/4 mile from the village up the steep Barry Brae and with no pavements on either side of the road.

I feel the best outcome would be a rejection of this proposal and the ground adopted by Angus Council who already have responsibility for the graveyard upkeep. Could the church and council not come to some arrangement and the site could be returned to the Memorial Garden it once was for Rev Walter Stewart and his wife Jean, a fact that seems to have been forgotten by the church - a seat and plaque in their memory stood in the grounds but were strangely removed some time ago.

Kind regards

Planning Application 21/00279/Full. Barry West Garden.

Objection to Application.

I understand that members of Barry Church have written in support of planning permission, indeed some have stated that the congregation is in support of this development. Some members of the congregation of Barry Church were not consulted on their views about this development. Perhaps this decision was taken on their behalf by the elders of the church, most of whom do not have the privilege of living in Barry village, unlike other members, who have lived here for 50 years, and their families who have resided here for more than five generations.

The church argue that it will close if they don't sell the grounds. Sadly, they are missing the most important point about that little plot. The church had a thriving community in this village for a long time until they bulldozed the community hall in the 1980's. By doing this, they ripped the heart out of this community and the opportunity to engage with the community. If they are in danger of closing, it is a danger of their own making. They have failed to engage any form of support within the village community. This plot gives them the only opportunity to do just that. It is the only plot in the centre of the village which provides a space for the community to gather, albeit outside. In times of covid this space has been invaluable to some families, regularly walking to the church garden for a bit of fresh air and respite from the indoors, they have been seen exploring the grounds with their children and sitting on the bench for a chat. If the church sells the garden, they significantly reduce the opportunity to have a place in which to rebuild the community spirit that was once enjoyed.

The church needs new young blood, they themselves have evidence that the Church of Scotland has an aging population across the whole country. By creating a community space and encouraging new young members to be part of this, they might just help rebuild this community as it once was. If permission is granted to build a house in this garden, they will obliterate any chance of rebuilding a community spirit and therefore the chance to encourage new young members as it is the only plot in the entire village available for this. Once it is gone, it is gone!

The garden was originally created by young members of the church, teenagers, as a community space to gather, to sit, to walk and for all to enjoy. Some members have stated that they never see anyone walking in the garden. With the linear layout of the village, it is difficult to observe people use the garden, but rest assured, there are lots of people use the garden, dog walkers use the access rights of the paths to walk through the garden, exercising their dogs and on up to either the graveyard or the Mill Road. Children like to explore the trees and the garden area. In recent years the Carnoustie Rocks trail has been great fun for the local kids to participate in, they hide small painted stones in the garden for others to find. Many local children have loved doing this and often ask if they can go and see if there are any new stones. This garden is used as a community space but with support from the congregation of Barry Church, the local authority and the support of the local residents, all combining their talents, it could be an amazing community space. If this was a new build development, the local authority would insist that provision was made for a public open space, a space which is community friendly and fit for purpose.

A number of residents in recent years suffer from ill health but still live in their own home, if there was user friendly disabled access, these residents could access this open space without having to travel too far from home for a bit of fresh air, respite from the confines of home and the opportunity to meet other residents.

One supporter has stated that the garden is in a poor state of repair. This is indeed true, but the church allowed this to happen. They are responsible for maintaining the grounds, a job which they have neglected for some time. When they demolished the old community hall, they left the stone wall in a dreadful state, failing to cap it with coping stones to ensure it was protected from water and frost damage. A problem of their own making!

Some local residents looked after the grounds for many years until they either passed away or had to move due to ill health. The church was glad of their help but did not encourage anyone else to look after it once these residents had gone. They seem to have forgotten their moral obligations as Christians to look out for, care for and respect one another. The community deserves a little more respect than some of the arguments that the church is putting forward in support of granting permission. This community will be here long after the church closes. This plot is in the centre of the village. Its layout is not currently user friendly but with a little investment the pedestrian and traffic flow could be made safer and more user friendly.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Robert Bell

Address: Lower Mill Cottage, Main Street Barry Carnoustie DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the proposal.

The junction of Mill Road and Main Street has no pavements and vehicles coming from the east constantly cut the corner - often at speed (new 20mph limit ignored by many).

There are already two entries on the east side of Mill Road at Constable Place. I feel it would be ill advised to position a further entry on the opposite side at the proposed site, which in my opinion, is not suitable at any point for vehicle entry/exit based on safety grounds for pedestrians and vehicles alike.

I would also point out that seven properties would be affected by infringement of their privacy, light and view - four to the south, two to the east and one to the west.

I note that the majority in favour of the plans are Barry Church members, none of whom live close to the site, with the exception of two, one of whom holds a position of authority in the church, so obviously would be biased.

The site has been used by villagers and churchgoers for around thirty years and there has never been concerns regarding health and safety until now.

The nearest greenspace from the village is Barry Mill, however it is unsuitable for the elderly and disabled due to poor pathways and slip and trip hazards. It is also 1/4 mile from the village up the steep Barry Brae and with no pavements on either side of the road.

I feel the best outcome would be a rejection of this proposal and the ground adopted by Angus Council who already have responsibility for the graveyard upkeep.

Could the church and council not come to some arrangement and the site could be returned to the Memorial Garden it once was for Rev. Walter Stewart and his wife Jean, a fact that seems to have been forgotten by the church - a seat and plaque in their memory stood in the grounds but were strangely removed some time ago.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Mr Robert Bell

Address: Lower Mill Cottage, Main Street Barry Barry, Carnoustie DD7 7RP

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: In the last paragraph of the report by the Countryside Access Officer he states "If the development is approved I would recommend that it is conditional on there being a continuous fence, wall or hedge between the site and the adjacent path. This would define the extent of private garden ground and protect both public access over the path and the privacy of the dwelling."

Anyone viewing the site would see a low wall already exists. Any higher a wall would mean that visibility would be affected at the junction of Mill Road/Main Street.

Someone moving into the house with children or a dog would inevitably construct a higher wall, fence or hedge for safety reasons but Google street view clearly shows why a low wall at both sides at the bottom of the plot is a necessity. Therefore this is one important reason a house on the site is not suitable.

Regarding the photos posted of open space to the south of Main Street by the proposed developer, these are private gardens/ground. What was not shown on the photographs were the adjacent garages on one nor the pig grazing on the other.

The photographs of the rest garden deterioration from November 2020 to May 2021 show nothing more than the natural difference between a photograph taken in the winter and one taken during the growth season and these have been taken from behind the rest garden area and the majority is not visible from the street.

Finally regarding the visibility splays which would be required onto Mill Road these would not be possible to achieve on this site.

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Dr David Thompson

Address: Mains of Ravensby Barry Dd7 7RJ

Comment Details

Commenter Type: Miscellaneous

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the planning application for the following reasons.

- 1) Loss of green space in the village. (pictures provided by the developer are of private gardens)
- 2) Loss of trees & mature shrubs.
- 3) Entrance to dwelling dangerous, very close to the junction, recently introduced 20mph limit introduced due to speeding issues on Mill Road.
- 4) Loss of privacy to properties on opposite side of Main Street.
- 5) Loss of natural daylight to Constable Place.
- 6) No safe parking for construction traffic & delivery vehicles during construction process.
- 7) No issues with fly tipping on the site. Leftover items are from the former owner of Constable Place, who used to maintain the Rest Garden but had to stop due to health issues.



The rest garden has been used by the general public for over 30 years & would be a great loss to the village. Perhaps a better option would be Barry Church merging with Carnoustie, this would also solve the issue with dangerous parking on a Sunday morning, where the congregation park illegally on a blind corner.



New Dwelling House Mill Road Barry

Site Location Plan

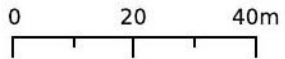
LEGEND

-  Land relating to this application
-  Adjoining land that we own

Produced: 14/12/2020

Reference: 20-B2693577-1

Scale: 1:1,250 (at A4)

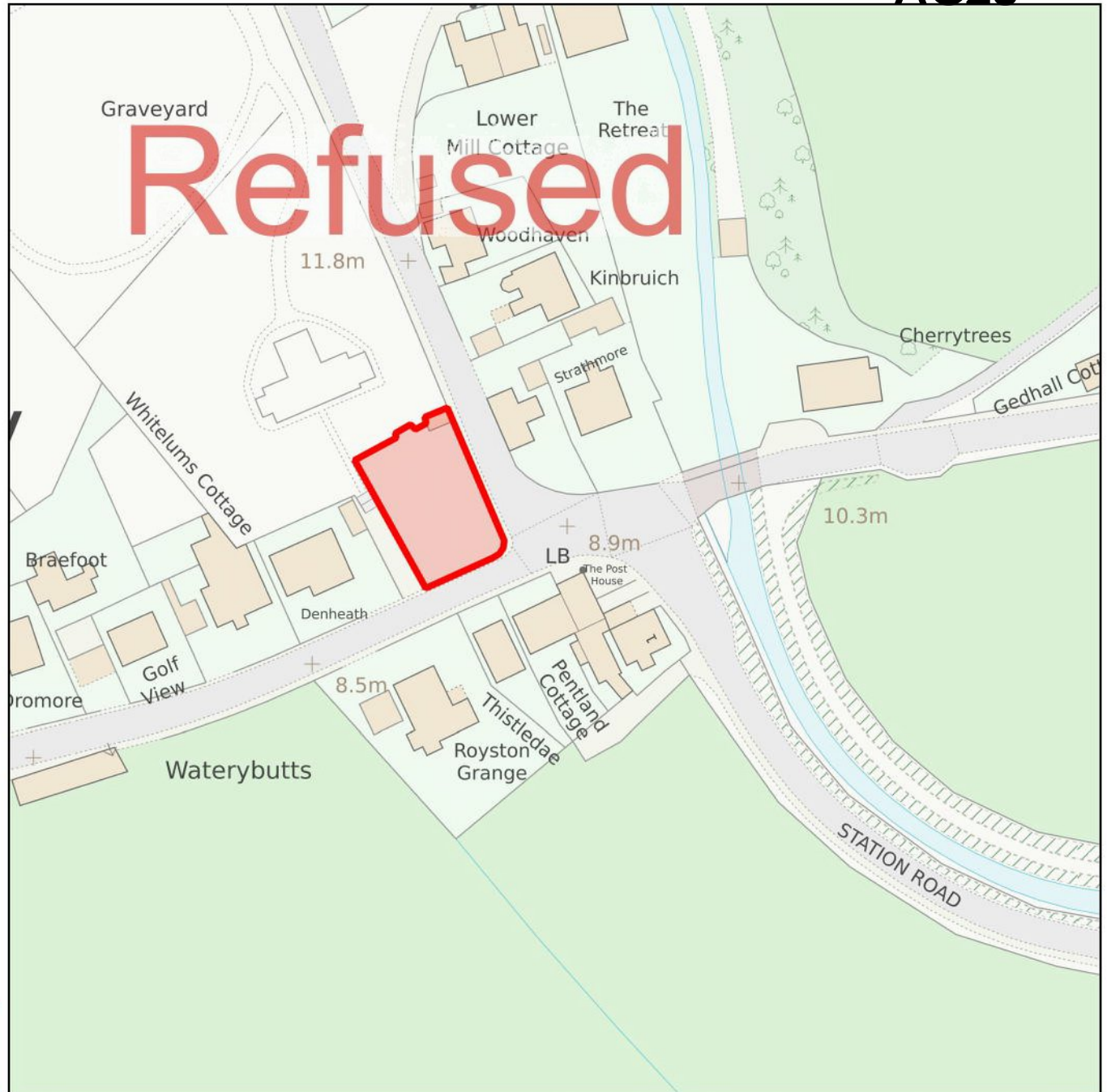


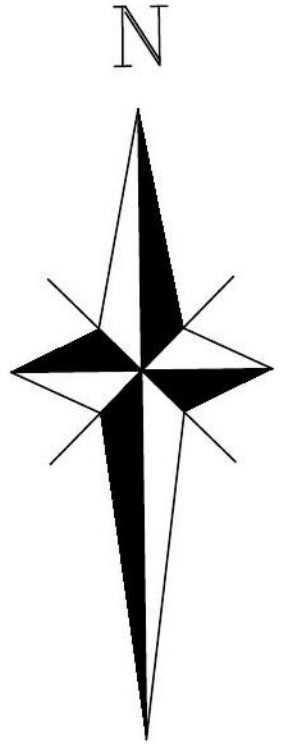
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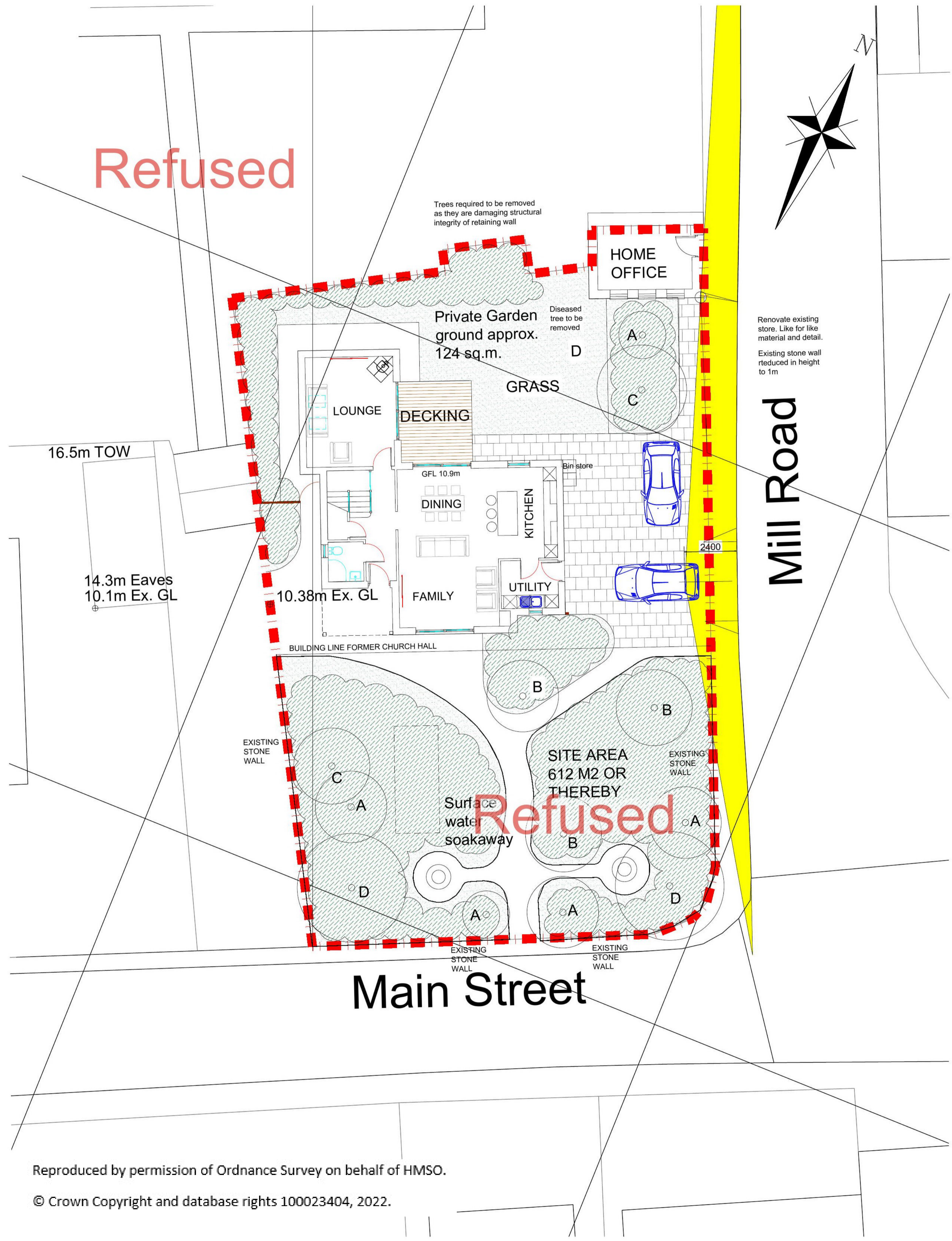




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Revision _____ Date _____

Susan Burness Architect Susan Burness Director Tel. 01241 860244 Mob. 07887686105 E mail sburness@sky.com			
Farmhouse Fairfield Mains Gurdyne Arbroath DD11 3RX			
Client S & R Developments (Arbroath) Ltd			
Project New House on site of Former West Church Hall			
Title Site Plan			
Arbroath		Telephone 01241 860244	
Drawn SB	Date 24_02_21	Drg Size A3	Checked
Job No. 20_05		Scale 1:500	
Drg No. 21_05_04			Rev



TREES

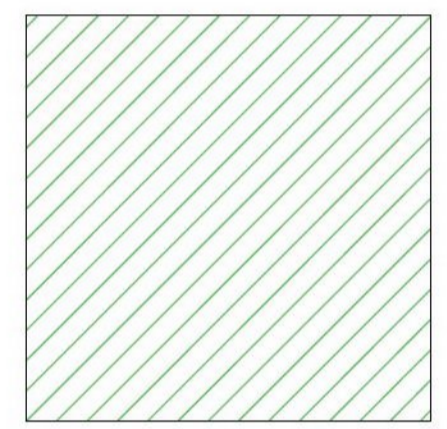
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- C- Whitebeam (Sorbus intermedia)
- D- SILVER BIRCH (Betula paedula)

SHRUBS

- A-HOLLY (Ilex aquifolium)
- B-EARED WILLOW (Salix aurite)
- C-BLACKTHORN (Prunus spinosa)
- D-HAZEL (Corylus avellana)
- E-DOG ROSE (Rosa canina)
- F- JUNIPER (Juniperus com)

WILDFLOWERS AND FERN

- Native Bluebell
- Globeflower
- Melancholy Thistle
- Wild garlic
- Violet Primrose



MIXTURE OF NATIVE SHRUBS AND WILD FLOWERS AND FERN TO PROMOTE BIODIVERSITY

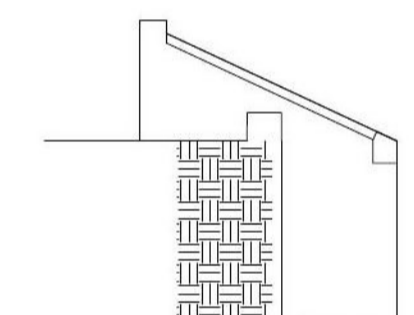
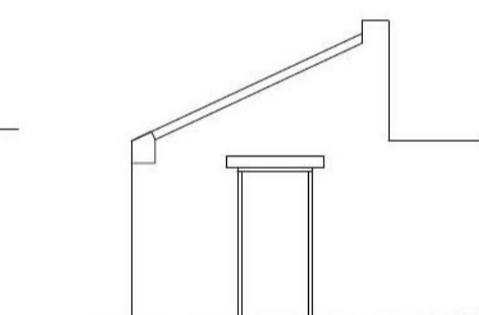
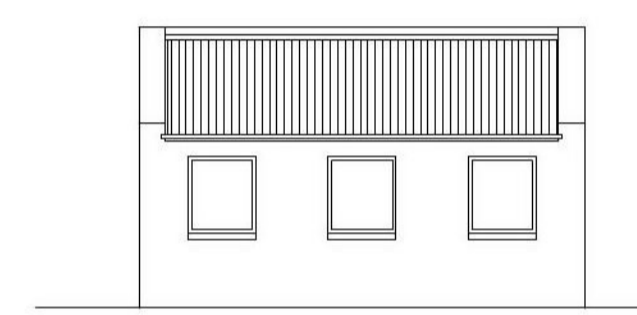
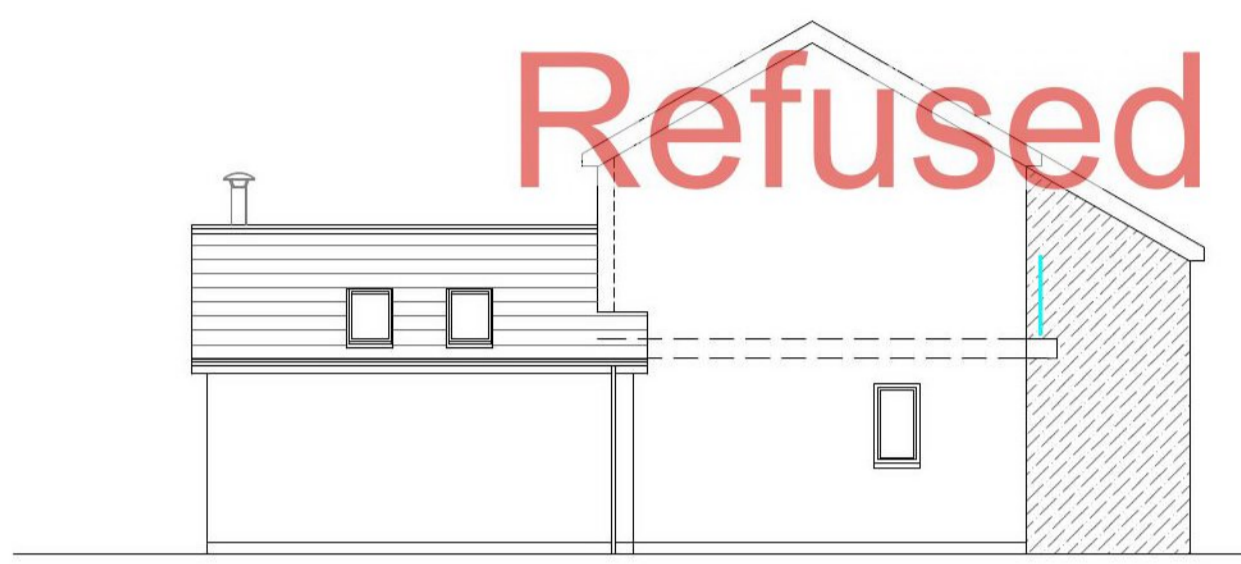
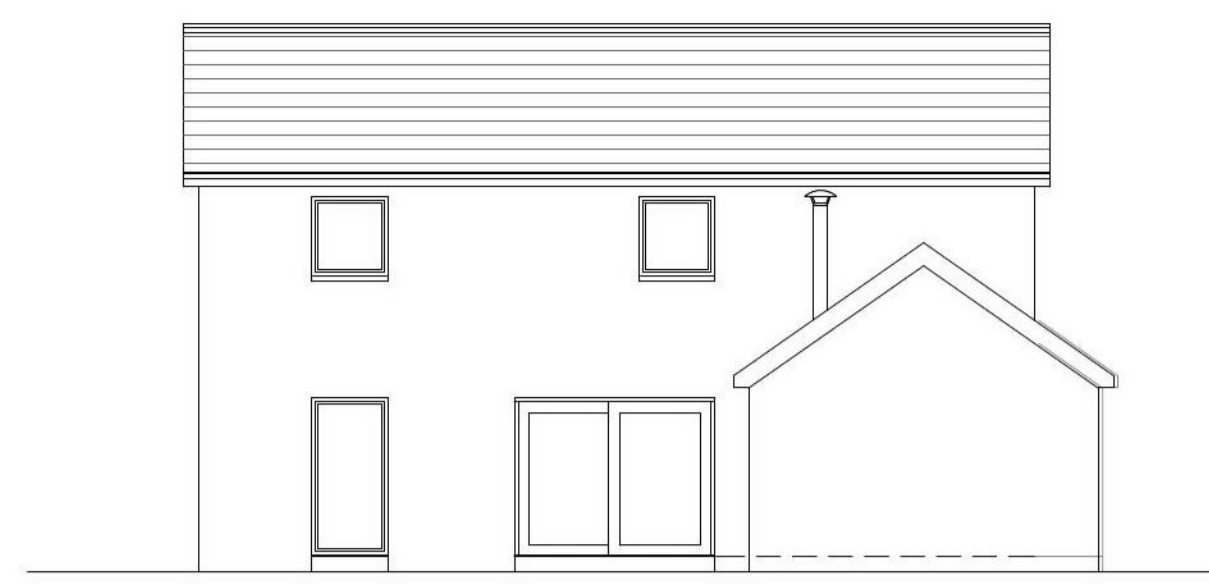
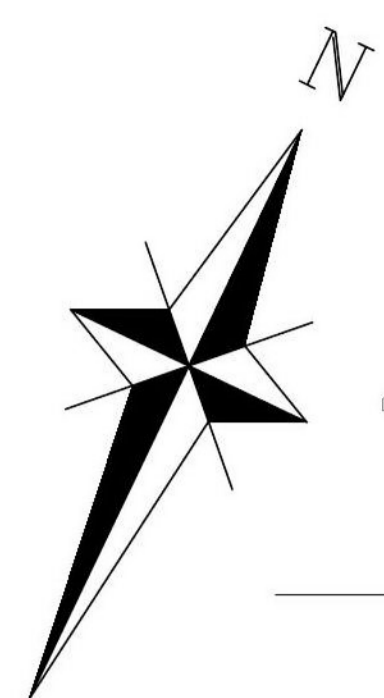
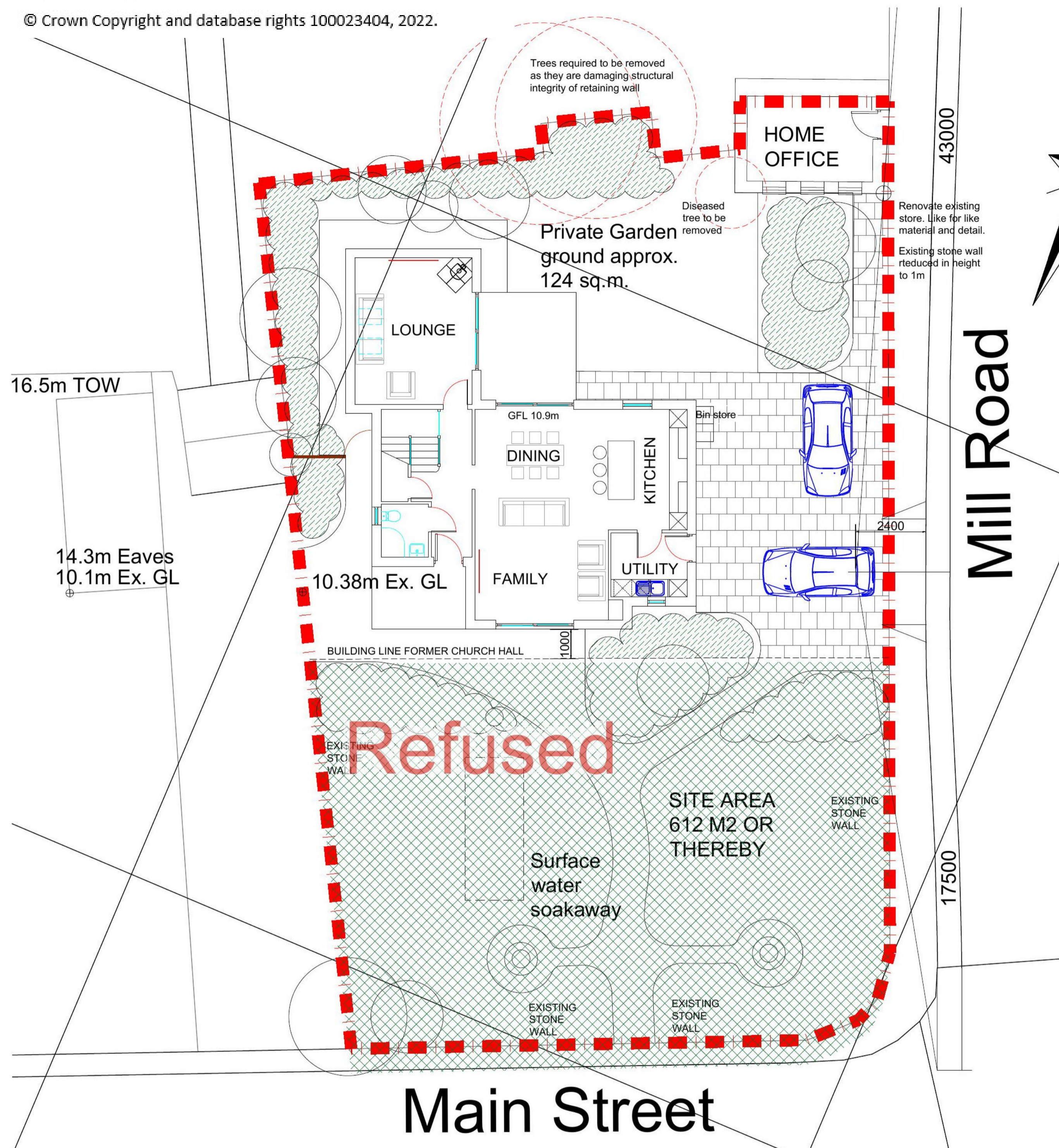
Refused

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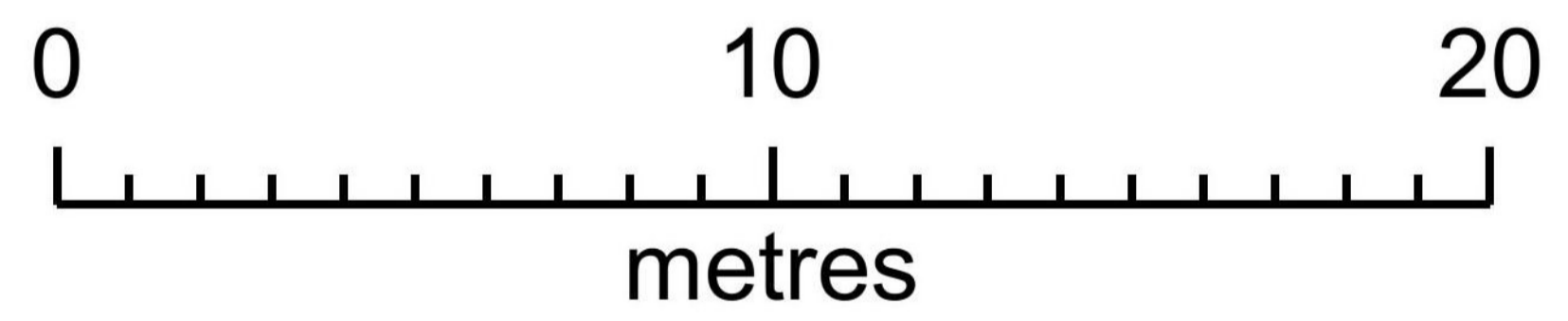
Revision	Date
Rev. B Existing trees to be removed.	08/02/21
Rev. C House design changed to 3 Bedroom	10/03/21

Susan Burness Architect Susan Burness Director Tel: 01241 880244 Mob: 0787998105 E: mail@susanburness.com			
Client: S & R Developments (Arbroath) Ltd			
Project: New House on site of Former West Church Hall			
Title: Landscape Plan			
Arbroath		Telephone: 01241 880244	
Drawn: SB	Date: 24_06_21	Dwg Size: A1	Checked:
Job No: 20_05	Scale: 1:100		
Dwg No: 21_05_05			Rev: 0

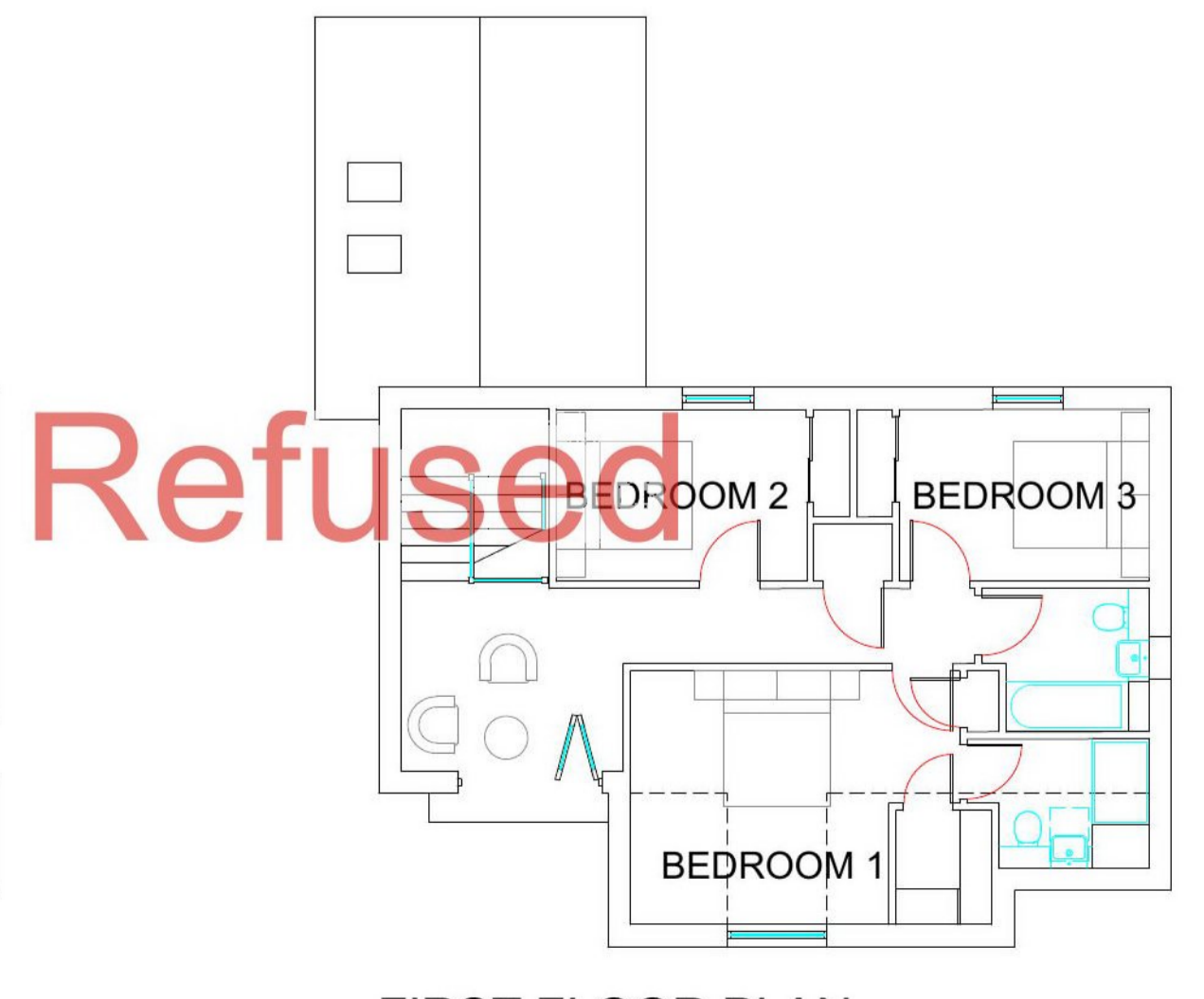
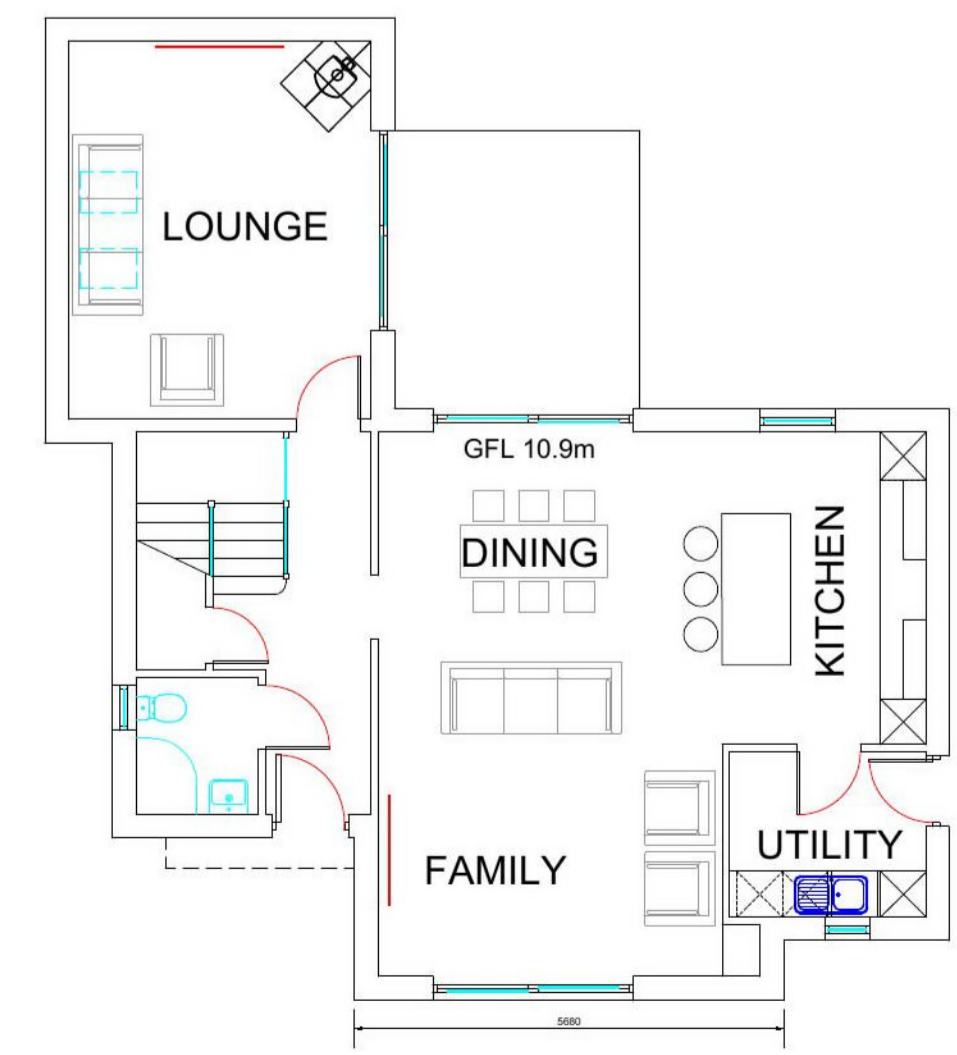


NOTES
ROOF- SLATE GREY TILES
WALLS- OFF WHITE RENDER/
RECONSTITUTED STONE
WINDOWS/ DOORS- GREY UPVC
FACIA AND SOFFIT- GREY UPVC

Existing stone store to be converted into home office. Corrugated metal roofing. Existing stone repointed where it is missing/defected in lime mortar.

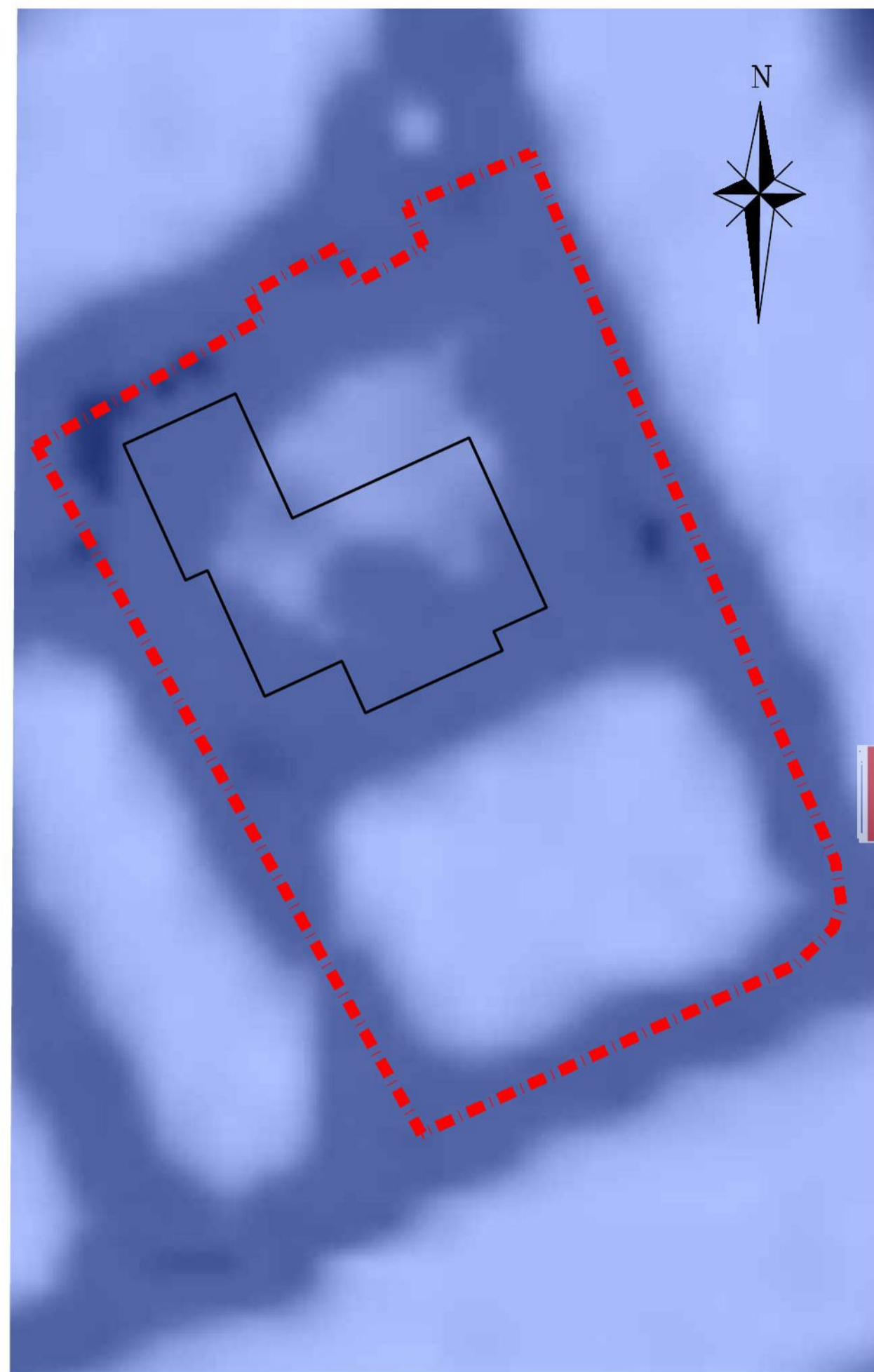


EXISTING STORE/
HOME OFFICE



Revision	Date
Rev. B Existing trees to be removed.	08/02/21
Rev. C House design changed to 3 Bedroom	10/03/21

Susan Burness Architect			
Susan Burness Director			
Tel: 01241 880244 Mob: 0787998105 E: mail@susanburness.co.uk			
Client: S & R Developments (Arbroath) Ltd			
Project: New House on site of Former West Church Hall			
Title: Plans, Sections and Elevations			
Arbroath	Telephone: 01241 880244		
Drawn: SB	Date: 20_12_08	Dwg Size: A1	Checked:
Job No: 20_05	Scale: 1:100		
Dwg No: 21_05_02	Rev: A		



Refused



0 10 20 SCALE 1:200
metres

DWELLING HOUSE LOCATED ON FOOTPRINT OF FORMER CHURCH HALL



Refused

Historic OS map illustrating Structure covering > 50% site area.



Existing store and gable end of former Church Hall forming site boundary.



Area to the North of the site is covered with gravel.



Rubbish littering the site



Leylandii to be removed new planting to be variety of native species.



Rubbish left on site



Existing retaining wall forming North Boundary



Diseased tree to be removed..

Refused



Existing derelict building on site



Retaining wall in dangerous condition

The site is the former location of West Church Hall and associated gardens. The footprint of the former hall was approximately 350 sq.m. The land on which the former hall was located is in generally hard standing with areas of encroaching vegetation. During the site visit rubbish and debris was evident.

The south part of the site is the former garden area associated with the Church Hall. Lack of maintenance has resulted in this area also becoming over grown.

The proposed house is located to the North of the site on land that is within the foot print of the former Church Hall. The gardens will be reinstated as a landscaped area.

Revision		Date	
Susan Burness Architect Susan Burness Director Tel: 01241 860244 Mob: 0781668055 E-mail: sburness@bt.com			
Client			
S & R Developments (Arbroath) Ltd			
Project			
New House on site of Former West Church Hall			
Title			
Site Analysis			
Arbroath		Telephone 01241 860244	
Drawn	Date	Dwg Size	Checked
SB	20_12_08	A1	
Job No.	Scale		
20_05	N.T.S.		
Dwg No.			Rev
21_05_03			

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

PLANNING PERMISSION REFUSAL
REFERENCE : 21/00279/FULL

To **S & R Developments (Arbroath) Ltd**
c/o Susan Burness Architect Ltd.
Farmhouse Fairfiled Mains
Gardyne
Arbroath
Angus
DD11 3RX

With reference to your application dated 9 April 2021 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Erection of a dwellinghouse at Rest Garden Main Street Barry for S & R Developments (Arbroath) 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 policies PV2 and TC2 of the Angus Local Development Plan (2016) because the development would result in the loss of protected open space and the proposal does not comply with any of the circumstances that allow for the loss of open space under Policy PV2; and is contrary to Policy TC2 because the site is protected open space and proposals for residential development in development boundaries are only supported where the site is not protected for another use.
2. The proposal is contrary to Policy DS1 of the Angus Local Development Plan (2016) because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2 and PV2.

Amendments:

- 1 Amended Proposed Floor Plans, Sections and Elevations Plan (drawing number 21_05_02 Rev A Planning) submitted on 10/05/21 supersedes the drawing previously submitted. This amendment showed changes to the design of the proposed dwellinghouse.

Dated this **24 November 2021**

Jill Paterson
Service Lead
Planning and Sustainable Growth
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
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 The Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, 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"/>
----------------------------	--------------------------	----------------------------	--------------------------	-----------	--------------------------

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.

West Garden Site at Barry

Comments from Congregation Barry Parish Church

- The garden was never created to be an official 'Rest Garden' and in our correspondence we refer to it as the 'West Garden', 'Garden Site' or 'Former West Church Hall site'.
- After the demolition of the church hall, the site was becoming an eyesore and was tidied up in the late 1980s or early 90s, by a Youth Club, which include young people linked to Barry Parish Church, under a Youth Club Scotland Challenge initiative. A bench seat was put in and the well was made a feature of at that time.
- In 2014/15, an open meeting was held at which a group of residents intimated a plan to set up a local residents group to look after the site.
In 2018, there was an intention to form a residents' association under the Scottish Community Buyout scheme, but this has not happened.
In 2019, the resident who was originally trying to set up the Residents group was looking to find another resident to spearhead the initiative.
- Impact on adjacent property and the local area: Dust and some disturbance would be expected where any building work is undertaken, whether it is house construction or additions to current houses. This is temporary only.
- Hazardous materials: If used, these would surely not be left on the site being left on the site. Storage would be the responsibility of the developer.
- Privacy of residents would not be affected once the development is complete.
- The design of the development appears compatible to the current visual appearance of the village – note the developer intends to leave the section of the site nearest the road as it currently is.
- Once complete, there would be no/minimal effect on the traffic flow in the area.
- Off road parking spaces are included in the plan.
- The ground is not even and should not be considered as a play area for children.
- Church members and families and the Community Payback team do some work in the garden but Community Payback input has stopped due to Covid 19 restrictions. Our members are ageing, as are community residents and the current low level of upkeep may not be sustainable in the future.
- There is an ongoing risk that residents overlook the fact that the site belongs to Barry Parish Church. In the past, vegetable have been grown and a tree was cut back by a resident who did not appreciate the site was church property.

Design and Access Statement



Description of Development: Planning Permission for Erection of a Single Dwelling house

Site Address: Mill Road, Barry, Carnoustie

Applicant: S & R Developments (Arbroath) Ltd.

Site Description

The application site which measures 612 square metres is located to the north of Main Street at its junction with Mill Road.

The North of the site, approximately 350sq.m. was formally occupied by West Church Hall.



Still retained on the site is a traditional stone building adjacent to the Northern boundary wall and the remains of the gable wall of the church hall, which forms part of the Eastern boundary.



After the demolition of the church hall, the site was becoming an eyesore and was tidied up in early 90s, by a Youth Club, which include young people linked to Barry Parish Church. The bench seat was put in and the well was made a feature of at that time. The garden was never created to be an official 'Rest Garden'.



Evidence of general rubbish building up in this area.



The foot print of the former Church Hall is predominantly hard standing covered with gravel and encroaching vegetation.

The Northern part of the site would be classified as a Brownfield site as per the definition.

Land which has previously been developed.

The term may cover.

- vacant or derelict land,
- land occupied by redundant or unused building and,
- development land within the development boundary where further intensification of use is considered acceptable.

The site complies with all the above.

The southernmost part of the site, approximately 262 sq.m., was previously garden ground associated with the former Church Hall.

It is not owned, managed, or maintained by the community.

Previous efforts to encourage community involvement in the maintenance of the garden area have been unsuccessful.

- In 2014/15, an open meeting was held to try to set up a local resident's group to look after the site.
- In 2018, there was an intention to form a residents' association under the Scottish Community Buyout scheme, but this has not happened.

The congregation of Barry Parish Church are getting older and are no longer able to maintain the garden ground either physically or financially.

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

Proposal

The application seeks planning permission for the erection of a new Dwelling house.

The proposed house, access, parking and private garden ground, are located within the footprint of the former Church Hall. The existing garden ground to the south of the site will remain private gardens.

The principal elevation faces south with a masonry wall in keeping with the former external wall of the church hall. The front elevation is 1 and $\frac{3}{4}$ storey and is in keeping with the scale of the adjacent properties.

There is a sitting area on the first floor with balcony providing views towards Panmuir Golf Club. Due to the location of the balcony, it does not provide any views into private garden ground of neighbouring houses.

Access to the site is off Mill Road. Parking is provided on site for 3 cars with sufficient turning space to allow vehicles to exit in forward gear.

Parking with hard standing and ramped access to level entrance will be provided for disabled use.

Transportation

The site has good access to public transport. There is a bus stop on Main Street and the site is also within walking distance of the train station.

Planning History

13/01129/PPPL Rest Gardens Main Street, Barry

Planning permission in principle for erection of a dwelling house

The planning application in principle was refused due to loss of an area of open space. No area of open space was identified or allocated within the previous application.

Applicant's Case

The proposal is for the redevelopment of vacant, underused and brownfield site within the defined Development Boundary. The former garden area is to be retained as private garden grounds.



The application site is bound to the north by a graveyard, to the east by Mill Road, to the south by Main Road and to the west by a pedestrian entrance to the graveyard. The boundaries of the application site consist of stonewalls of varying heights.



The area of land to be developed is a brownfield site within the development boundary.

There is no rights of access over this ground. Ref. Solicitors letter Appendix I.

In accordance with the local plan the proposals seek to maintain this private open space and the development of the northern section of the site will ensure this area is maintained and retained as a focal point in the village.

The existing well and stone feature located within the garden ground will be retained as focal points within the garden.



Developing the site for residential use will be to the benefit of the local area and streetscape as the former gardens will be restored and maintained as part of the development.

The character and visual amenity of the area will be preserved and enhanced.

Impacts on listed buildings - the application site does not contain any listed buildings or any scheduled ancient monuments.

Impacts on wildlife - the application site is not located in an area that is subject of any ecological designation and the natural heritage designations in the wider area would be adversely impacted by the development.

The application is for a residential development in a predominantly residential area and such a development would not alter the character of an area of established amenity or introduce significant change into a homogeneous area.

The application site is not specifically allocated and lies within the Development Boundary of Barry.

The current Local Development Plan indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

The application site is located out with the flood envelope of any existing watercourse.

The surface water will be dealt with via SUDS and soakaway located within the garden ground.

Existing Trees

Where possible existing trees on the site will be retained.

In accordance with Structural Engineers statement, trees growing at the base of the retaining wall will have to be removed as they are adversely affecting the structural integrity of the retaining wall. Further to removal of the trees the existing masonry walls will be underpinned as required. Ref Appendix II.

New planting using native species will be carried out.

Open space

As previously noted, the land is privately owned and not subject to any public rights of access or rights of way. The only rights of access are statutory rights of access, which equally apply to farmers fields and/ or other private land either within or out with the development boundary. Barry is a small village within the Carnoustie/ Barry development plan area. Like most of the small rural villages in Angus it does not have a public park or gardens. It does, however, have good access to the open countryside. In addition, the Carnoustie path network connects with Mill Road, Barry which runs along the west side of the site. In addition, the grounds of Barry Mill, Mill Road, Barry is a short walk from the site, has picnic area, play area, disabled access, and countryside walks.



A Public Park or Garden, in accordance with Pan 65, is **managed and maintained**. In accordance with Pan 65 the garden ground would be designated as private garden or ground associated with an institution not a public garden. The institution being The Church of Scotland and the former Church Hall. Ref appendix III.

The former Church Hall Garden may be described as an open space under the following definition.

An area private garden/ grounds connected with a private house/ institution and not a public space.

The intension is that this open space is retained as private garden and will still be classed as open space in accordance with the above definition. The only difference is that it will be associated with a private house rather than an institution (Church of Scotland).

The site is, however, not identified as open space within the Angus Council Local Development Plan.



Barry is a rural settlement on the outskirts of Carnoustie, there is considerable amount of open space adjacent to the site. Both within and out with the development boundary

Conclusion

- In all locations, proposals that re-use or make better use of vacant, derelict, or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.
- The site is not allocated as open space in the current Local Development Plan
- The Local Development Plan indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- The works will remove dereliction and allow for repair of existing masonry structures, including the retaining wall.
- The open space associated with the former Church Hall Garden is to be retained.
- The development will bring the garden back into use and secure its future with ongoing maintenance.
- Well maintained garden ground associated with the new dwelling house will improve Barry Street scape.
- There is ample open space in the surrounding area.
- Attempts to attract community involvement with maintainance of the garden has been unsuccessful.
- Refusing the application will ensure dereliction is not removed by owners of land in the future as it will be deemed to risk successful outcome of any future development application.
- Refusing planning permission would deny the Church of Scotland the use of previously developed land for their benefit.

We respectfully request the planning application is approved as the proposed development is in accordance with the current local plan.

Appendix I



BAILLIE SHEPHERD
SOLICITORS & ESTATE AGENTS

37 Union Street, Dundee DD1 4BS
Tel: 01382 202444
Fax: 01382 202208
DX DD106

Property Office
45 Union Street, Dundee DD1 4BS
Tel: 01382 201000

www.baillies-law.co.uk

Susan Burness
S & R Developments Limited
Fairfield Mains
Gardyne
Arbroath
DD11 2RX

Our Ref: AJB/VA/S & R01-01
Date: 25 January 2021
Please Contact: Alan Baillie
e-mail: alanb@baillies-law.co.uk

Dear Susan,

Proposed Purchase - West Church Hall, Main Street, Barry, DD7 7RP

We have now had a chance to examine all the titles for the above and can confirm that the ground on site, other than as built, is privately owned and not subject to any public rights of access or rights of way.

Yours sincerely



Alan Baillie

t^spc

Members of Tayside
Solicitor's Property Centre

Solicitors: Peter B. Shepherd LLB NP, Alan J. Baillie LLB NP, Kenneth Glass LLB NP,
Alison A. Mitchell BA LLB Dip LP NP, Tania Royle BA (Hons) LLB Dip LP

Property Manager: Joe Dolan

Licensed to conduct Incidental Financial Business by The Law Society of Scotland.

Baillie Shepherd is a trading name of Baillies Law Limited, registered in Scotland No. SC417843 at 37 Union Street, Dundee DD1 4BS.



St Davids House
 St Davids Drive
 Dalgety Bay KY11 9NB
 DX 558300 DALGETY BAY
 t 01383 826777
 f 01383 826778
 e customerservices@firstscottish.com
 w www.firstscottish.com

CHURCH OF SCOTLAND
 DX ED144
 EDINBURGH

Date of Certificate: 29 December 2020
Certificate No: I01740462
Your Ref: SK/QO-BARRY

PROPERTY ENQUIRY CERTIFICATE

PROPERTY	
FORMER WEST CHURCH HALL, BARRY	
PLANNING	
Local Authority Area	Angus
Adopted Local Plan/Local Development Plan	Angus Local Development Plan
Zoning	Residential
Applications	None
Other Matters	None
BUILDING STANDARDS	
Applications	None
Notices	None
Other Matters	None
ENVIRONMENTAL HEALTH	None
HOUSING	None
CONTAMINATED LAND	None
CARRIAGEWAY AND ADJOINING FOOTWAY	
Status	Adopted
Road Proposals	None
WATER	See Schedule Over
DRAINAGE	See Schedule Over

Appendix II

Fw: New House Barry

From: S Burness ([REDACTED])

To: [REDACTED]

Date: Monday, 8 February 2021, 15:16 GMT

From: Mark Pirrie <mark.pirrie@millardconsulting.co.uk>
Date: 8 February 2021 at 08:20:55 GMT
To: S Burness <[REDACTED]>
Cc: Stewart Burness <[REDACTED]>
Subject: RE: New House Barry

Morning Susan,

Thank you for sending over the photographs of the wall with trees growing out at the base of the wall.

These trees need to be completely removed and roots removed as best you can achieve. The wall will required to be underpinned locally and repaired as necessary to maintain integrity of the retaining wall.

Regards

Mark Pirrie

Director

Millard Consulting
Seabraes

18 Greenmarket

Dundee

DD1 4QB

t 01382 227 380

m [REDACTED]

e mark.pirrie@millardconsulting.co.uk

Appendix III

Table 1: Types of Open Space

Type	Description
Public parks and gardens	Areas of land normally enclosed, designed, constructed, managed and maintained as a public park or garden. These may be owned or managed by community groups.
Private gardens or grounds	Areas of land normally enclosed and associated with a house or institution and reserved for private use.
Amenity greenspace	Landscaped areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons and used for a variety of informal or social activities such as sunbathing, picnics or kickabouts.
Playspace for children and teenagers	Areas providing safe and accessible opportunities for children's play, usually linked to housing areas.
Sports areas	Large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports (including playing fields, golf courses, tennis courts and bowling greens) and which are generally bookable.
Green corridors	Routes including canals, river corridors and old railway lines, linking different areas within a town or city as part of a designated and managed network and used for walking, cycling or horse riding, or linking towns and cities to their surrounding countryside or country parks. These may link green spaces together.

Natural/semi-natural greenspaces	Areas of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland and wetland areas.
Allotments and community growing spaces	Areas of land for growing fruit, vegetables and other plants, either in individual allotments or as a community activity.
Civic space	Squares, streets and waterfront promenades, predominantly of hard landscaping that provide a focus for pedestrian activity and can make connections for people and for wildlife.
Burial grounds	Includes churchyards and cemeteries.
Other functional greenspace	May be one or more types as required by local circumstances or priorities.

Table from Planning Advice Note 65

Development of Former West Church Hall Site, Mill Road, Barry, Carnoustie

Response to public objections

In relation to the planning submission, we would like to address concerns relating to the proposed new dwelling house on the site of the former West Church Hall Barry.

Loss of Open Space

In the first instance the site is not public or communal land.

In accordance with Allan Baillie, Baillie Shepherd Solicitors and Susan Killean, Solicitor to the Church of Scotland;

- **The site is not subject to any public rights of access or rights of way.**
- **The Congregation could have, at any time, closed off the area and prevented access to it.**



- The proposed dwelling house is to be constructed on brownfield land on the footprint of the former West Church Hall.
- The site has become an eyesore and is having a detrimental effect on the current streetscape.
- Attempts to attract community involvement with maintainance of the garden has been unsuccessful.
- Masonry structures on the site require urgent repair and maintainance.
- The objectors have offered no alternative solution as to how lack of maintainance of garden ground and masonry structures can be resolved, other than suggest the area be adopted by Angus Council.
- The situation will continue to deteriorate unless the current application is approved.
- The site is rarely used by the community and the area to the rear of the site is unsafe.

LACK OF OPEN SPACE

It has been suggested that Barry has a lack of open space. This is evidently untrue.



Open space to the south of Main Street Barry

Unlike the application site, the open space to the south of Main Street Barry would, under The Land reform (Scotland) Act 2003, be subject to statutory public rights of access for recreational and other purposes.

Current condition of the site

Images presented with the application were taken in November 2020 and represent the condition of the site at the time. The following images were taken on the 7th of May 2021 and the condition of the site has continued to deteriorate.





Build up of rubbish is clearly an issue on the site.

Privacy

All the windows comply with the Angus advise note from small developments. The rear windows look towards the cemetery and the south most windows are approximately 25.5m to the nearest property on Main Street. The Lounge window overlooks the rear garden ground and is 22.5m from the nearest property and will also be screened by planting.

With regards to the balcony on the front elevation. The balcony sits to the side of Denbeath and would not afford views into the rear garden ground. However, in response to neighbours' concerns, we have omitted the proposed balcony and replaced it with a Juliette Balcony.

Traffic Transport and Access

Vehicular access is proposed onto Mill Road. The height of the former gable end of the former church hall will be reduced and coping stones added to create a new stone wall less than 1m high. This will allow appropriate sightlines to the North and South. During construction phase the contractor will make every effort to minimise disruption to residents.

Trees

The existing trees growing out of the base of the retaining wall and the existing masonry building on the site require to be removed to ensure structural integrity of these structure.

Existing non-native evergreen and leylandii are also to be removed where indicated on the plans and replaced with indigenous species.

Proposed Development

- The proposed development will remove an area of dereliction.
- Garden ground to the south will be reinstated, improving the visual appearance of the area.
- Additional landscaped area has been provided to the east.
- Development of a new house on a brownfield site will reduce the pressure of development on greenfield or previously undeveloped land.
- The site is ideally located for public transport and close to amenities.
- The proposed house will provide high quality residential property to the latest environmental standards.
- The proposed site is within an existing residential area.
- There is considerable community support for the application.

**Preliminary Ground Level Bat Roost Assessment,
Bird and Protected Species Survey**

For Trees at New House Plot

At Mill Road, Barry, Carnoustie, Angus

Thursday 17th June 2021



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EXECUTIVE SUMMARY

A preliminary survey to assess the potential likelihood of bat roosting features within the trees at the New House plot at Mill Road was carried out. A day-time ground level roost potential assessment was carried out. The tree survey demonstrated a low or negligible potential for the presence of bat roosting features for the trees at the site. Bats are a protected species, and it is an offence to intentionally, or recklessly, disturb a bat, in a shelter or resting place; or to damage or destroy a breeding or resting site. All bats and their roosts are legally protected because bats return to the same places every year, a bat roost is protected even if there are no bats there. No further surveys of trees with low or negligible potential bat roost features are required. There is potential to enhance bat roosting potential by installing bat boxes at the site on south-easterly through to south-westerly aspects. Retaining and planting of bat friendly trees, shrubs, and plants as part of works will enhance the habitat and as favourable habitat will remain in the wider local area it is not anticipated that there will be any long-term detrimental impact to any foraging bats.

There was evidence of common birds nesting in the trees and shrubs, including blackbirds and robins. All wild birds and their nest, eggs and dependent young are legally protected, and it is an offence to disturb a wild bird when it is nesting. It is recommended that any works which may impact vegetation are planned to take place outside of the nesting season where possible. For works commencing during the breeding bird season, it is recommended that prior to any ground clearance or vegetation/tree felling works that a breeding bird survey is carried out prior to any works taking place. Any active nest sites must be suitably protected until the chicks have fledged. There is potential to provide alternative nesting opportunities for birds by installing nesting boxes at the site. There was no evidence of any other protected species at the site.

1. INTRODUCTION

1.1 Site location

The house plot is located on Mill Road, Barry, at the junction with Main Street at grid reference NO 533 343, at an altitude of 10 metres above sea level. *Appendix 1 Location Plan*

1.2 Site description

The site is an area of garden, with a selection of trees and shrubs around the perimeter of the site. There is a stone wall along the north-eastern perimeter of the site.

1.3 Proposed works

It is proposed to construct a new property at the site. *Appendix 2 Proposed Site Plan*

2. SURVEY AND SITE ASSESSMENT

2.1 Objectives

The survey aims to make an appraisal of the potential bat roosting features within trees on the site. The survey specifically looked for the presence of potential bat roosting features within these trees with a ground level roost assessment. The presence of breeding birds and any other protected species was assessed.

2.2 Methods

2.2.1 Pre-survey data search

Web-based sources of information were examined, principally the National Biodiversity Network (NBN) Gateway (<http://data.nbn.org.uk/>) where a radius of 5km from the centre of the proposed development was searched to provide suitable coverage of the area. Nature designation classifications were obtained from NatureScot, formally Scottish Natural Heritage, Site Link (<https://sitelink.nature.scot/home>). Other websites searched include Bat Conservation Trust (BCT) (<http://www.bats.org.uk/>). Positive records for species present in the survey area can be used to inform the assessment of biodiversity on the site but the lack of records cannot be taken to imply that bat species are absent.

2.2.2 Survey methodology

A site visit was carried out after receiving information from Susan Burgess, Director, Gardyne Homes Ltd. A walk over survey was carried out and an overall habitat assessment was made, breeding birds and protected species were surveyed for. A bat survey was carried out incorporating a preliminary ecological appraisal, and preliminary potential roosting feature assessment. The trees were surveyed from ground level following Good Practice Guidelines, 3rd Edition. Bat Conservation Trust (BCT), Collins, J (2016) and methods from British Standard 8596-2015 Surveying for bats in trees and woodland – guide (2015). Equipment included a powerful torch, ladders, binoculars, and an endoscope.

2.2.3 Survey area

The survey area covered all trees and shrubs on the site as identified in the tree survey.

2.2.4 Timings, types, and weather conditions of Field Surveys

14/06/2021 Tree roost assessment, breeding bird and protected species surveys - temperature 17 degrees Celsius; wind speed 5mph; cloud cover 50%; no precipitation; good visibility.

2.2.5 Limitations

Survey data is accurate on the dates that the surveys took place and is based upon observations of the site as it currently exists. Trees were surveyed from ground level, however, all identified potential roost features were accessible with the surveyor's equipment. Tree condition should be re-evaluated after extremes of weather that may affect the trees' health or stability. Any alteration to the site and the context in which these trees grow will make it necessary to re-assess tree condition. Trees are dynamic and complex organisms and are subject to change.

No soil, pathogen or tree samples were taken; no drilling or other decay detection devices were employed; an endoscope was used for examining accessible tree cavities. No detailed assessment of the rooting zone and below ground tree physiology was made. All observations were made from within areas of public access.

2.2.6 Personnel

Emma O'Shea, Ecological Consultant, Tay Ecology, Bat Licence Number 103292

Emma has worked in the environmental sector for seventeen years, during which time she has gained a wealth of experience and expertise. During the last seven years she has worked as an ecological consultant for Tay Ecology with lead responsibility for development projects requiring protected mammal species surveys and species licensing, she trained for her bat licence under Neil Middleton, Echoes Ecology on the Bat Skills Development Programme. Emma has a Postgraduate Diploma in Environmental Management from the Open University and is a member of the Institute of Environmental Impact and Assessment.

3. LEGISLATION AND POLICY GUIDANCE

Bats: All bats and their roosts are legally protected in Scotland by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) - "the Habitats Regulations". A bat roost is any structure or place which a bat or group of bats use for shelter or protection, because bats return to the same places every year, a bat roost is protected even if there are no bats there.

It is an offence to deliberately or recklessly: capture, injure or kill a wild bat; harass a wild bat or group of bats; disturb a wild bat in a roost (any structure or place it uses for shelter or protection); disturb a wild bat while it is rearing or otherwise caring for its young (this would be a 'maternity' roost); obstruct access to a bat roost or to otherwise deny the animal use of the roost; disturb such a wild bat in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of that species; disturb a wild bat in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or care for its young.

It is also an offence to damage or destroy a breeding site or resting place of such an animal (note: this does not need to be deliberate or reckless to constitute an offence); keep, transport, sell or exchange or offer for sale or exchange any wild bat or any part or derivative of one (if obtained after 10 June 1994).

4. BAT ECOLOGY

4.1 General Bat Ecology

In this part of Scotland there are 5 species of bat generally found: Common Pipistrelle *Pipistrellus pipistrellus*; Soprano Pipistrelle *Pipistrellus pygmaeus*; Brown Long-eared *Plecotus auritus*; Daubenton's *Myotis daubentonii*; and Natterer's *Myotis nattereri*. The species of pipistrelle use trees and man-made structures to roost and can be found in both a rural and urban setting. Brown long-eared bats may roost in trees or often in old buildings with large attics, preferring buildings associated with mature woodland in which they can forage. Daubenton's roost close to still or running bodies of water, either in trees or structures such as bridges. Natterer's bats have a similar habitat to brown long-eared bats but are less common.

Female bats roost together in a colony from May until the autumn. They usually have one baby in June which is reliant on its mother for 2 months and will remain in the roost whilst the mother feeds. In the autumn, the colony will move from their warm summer roost, often in buildings, to a cooler winter roost which may be in trees, unheated buildings with thick stone walls, caves, and similar places. In their winter roost they become torpid as the weather cools, and they hibernate. Male bats live in smaller groups or individually in cooler roosts such as steadings or tree holes and can be found in maternity colonies in the early autumn when mating takes place. Whilst bats are hibernating, they are particularly vulnerable to disturbance. Each time they wake it uses up their energy stores and with repeated disturbance the result can be their death.

4.2 Tree Roost Value and Importance

Bats use a range of different tree features throughout the year for roosting and rely on utilising a range of sites within an area. Bats move frequently between roosts as seasonal conditions vary. Assessing the importance of an area to bats initially considers the number of suitable features available to use as roost sites, as well as the proximity to foraging sites and the connectivity with the wider landscape. Bats use linear landscape features such as high hedges, water courses, railway cuttings and tree lined roads to commute between their favoured roosting and foraging habitats.

The size of available features is also an important consideration because bats are social animals that live in colonies. Bats may roost as individuals, in small groups or as a colony, depending on the availability of roost sites, local environmental factors and according to their physiological requirements. Bats are long lived animals with a habitual nature, which when combined with their social lifestyles means that they make regular use of the same roost sites year after year. It is therefore possible to assess the value of certain tree features based on their age and longevity with consideration to a potential history of use that could be measured in decades.

The desirability of suitable roosting opportunities within a local context is another important consideration, and whether the full range of different roost conditions required during the bats' life cycle are available to them. For example, to raise their young bats choose very warm roosts, often in dead trees that are in full sun for most of the day, but they also need cool damp roosts to allow them to go into torpor and survive periods of wet or cold weather when their food may be in short supply.

4.3 Tree Features Used By Bats

Bats do not have the physical capacity to build nests or create cavities for roosting and are dependent on the availability of naturally occurring tree features which can be utilised for roosting. A single pipistrelle bat may roost under loose bark, in branch splits or behind ivy, such sites are frequently found in most areas. In contrast larger bats may prefer cavities, such as old woodpecker holes, which will accommodate larger numbers of bats. Larger features are less common, and their availability could influence the local diversity of bats.

Bats use a broad diversity of tree features for different reasons at different times of year. Research of bat roosting ecology combined with reports of roosts found during tree work appears to indicate that any feature that offers space for a bat to squeeze into could be used at some time. Bats appear to show no preference for the size, age or species of tree they use for roosting, but some tree species do appear to have a propensity to forming and holding onto features that are favoured by bats as roost sites. For example, tree species like oak, pine, willow, and sweet chestnut are prone to developing splits in their branches and trunks, while ash, beech, poplar, and sycamore tend to be associated with cavities in their trunk and main branches.

Bats have been recorded using more than 30 different roost sites over the course of one summer season, with some species having been observed moving roosts every 2-3 days, while others show commitment to a few favoured sites. This may be an indication of species preferences, availability of suitable tree features, or even a means of avoiding predation. However, other species exhibit loyalty to a smaller number of significant roost sites that are used preferentially over others that may offer similar conditions.

5. RESULTS

5.1 Pre-survey data search

NatureScot nature designations within 5km include Barry Links Special Site of Scientific Interest SSSI and Barry Links Special Area of Conservation SAC.

National Biodiversity Network confirmed presence of Common pipistrelle *Pipistrellus pipistrellus*; Soprano pipistrelle *Pipistrellus pygmaeus*; and Brown Long-eared bat *Plecotus auritus* within 5km. Within 2km 23 records of Soprano pipistrelle have been recorded by the National Trust for Scotland at Barry Mill. 7 records of Soprano pipistrelle have been recorded in NO 5334 from 2011-2015 which fall within 1km.

5.2 Field surveys

5.2.1 Description of Habitats of potential value to bats

The trees on the site are predominantly coniferous and have limited potential to be of value for commuting and foraging bats. The area to the north-west of the site towards Barry Mill has greater potential for bats.

5.2.2 Bat Surveys

5.2.2.1 Preliminary roost assessment

Tree 901, along SE boundary



Along NE boundary



Tree 903, 902, 904



Along NW boundary



Tree 905



Tree 906



5.2.2.2 Grading Criteria

The grading criteria considers a bat value rating based on identification of features such as peeling, plated bark, splits, hollows, decayed stems and trunks, coalesced decay seams, fissures, cracks, standing dead trees and climbing vegetation cover. The presence of such features is assessed together with suitability as a roost site and the type of roost it could be. For example, a large, open

decay pocket is not as favourable for roosting as a large decay pocket with a narrow entrance, due to the increased exposure to the elements and predation experienced by the former. The longevity of such a feature is also considered.

The rating system provides a scoring method assessing the potential of a tree to provide features with suitable conditions for roosting bats. Additional notes will be taken when tree features are observed with evidence that could indicate current use by bats, but it should be noted that this is rarely found.

5.2.2.2 Scoring System for Grading Potential Roosting Features (PRFs) in Trees

Adapted from Collins (2016, p.35)

No.	Value	Description of Potential Roosting Features (PRFs)			Timescale
0	Negligible	Negligible habitat features on site likely to be used by roosting bats.			
1	Low	A tree of sufficient size and age to contain PRFs but with none seen from the ground or features seen with only very, limited roosting potential eg. 1-2 minor PRFs for individual bats.	PRFs associated with feeding or night-time roosts, easily replaced elsewhere.	Sparse ivy cover, minor branch splits, small sections loose or flaking bark.	0-10 years.
2	Moderate	PRFs provide a more secure form of roost for small groups of bats and individuals.	PRFs are common types of features	Dense ivy, significant branch splits, small cavities.	10-30 years.
3	High	PRFs of significance, suitable for high priority roosts, used by large numbers of bats.	PRFs offering conditions that are uncommon or rare in the local area.	Large cavities, extensive branch or trunk splits, multiple features in the same tree.	30+ years.
4	Confirmed Roost	Evidence found that indicates tree features are being used by bats.	Droppings found at the base of tree, below a cavity.	Bats heard 'chattering' inside a feature on a warm day or at dusk.	Bat(s) observed flying from a feature.

5.2.2.3 Tree Survey Results for Preliminary Bat Roost Assessment

Table 5.1 Tree Survey Schedule, numbers as *Appendix 3 Tree*

Locations and Numbering

Tree No.	Species	Notes	Roosting Potential (0-4) - category	Roost found	Proposed work	Implications for Proposed work
T901	L.cypress DBH 100mm x 7 Height 3m	Negligible potential features likely to be used by roosting bats.	0	No	Retain	No further survey required.
T902	L.cypress DBH 180, 140, 140, 110mm Height 4m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T903	L.cypress DBH 180, 150, 140mm Height 4m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.

T904	Picea spp. DBH 230mm Height 7m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T905	Ash DBH 280, 220, 160mm Height 9m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T906	Elder DBH 230mm Height 4m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T907	L.cypress DBH 180mm Height 3m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T908	L.cypress DBH 180mm Height 3m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T909	L.cypress DBH 310, 320mm Height 6m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	0	No	Reduce	No further survey required.

Table 5.1 shows that the trees at the new house plot at Mill Road have low or negligible bat roost potential features and therefore no further survey is required (Collins, 2016, p.51). Collins (2016, p.35) defines ‘low’ as ‘a tree of sufficient size and age to contain PRFs but with none seen from the ground or features seen with only very, limited roosting potential’. Negligible is a tree with negligible potential roosting features likely to be used by bats.

6. ASSESSMENT

6.1 Constraints on survey information

The survey data is accurate at the time of survey. Trees were surveyed from ground level, however, all identified potential roost features were accessible with the surveyor’s equipment. Further inspection of the identified potential roost features was undertaken at the time of the survey and no evidence of bats was found. Trees are dynamic, living organisms, in the event sufficient new evidence is found to upgrade the tree categories the trees should be re-surveyed (BS 8596, 2015, p.18).

6.2 Discussion

A preliminary survey to assess the potential likelihood of bat roosting features within the trees at the New House plot at Mill Road was carried out. A day-time ground level roost potential assessment was carried out. The tree survey demonstrated a low or negligible potential for the presence of bat roosting features for the trees at the site. Bats are a protected species, and it is an offence to intentionally, or recklessly, disturb a bat, in a shelter or resting place; or to damage or destroy a breeding or resting site. All bats and their roosts are legally protected because bats return to the same places every year, a bat roost is protected even if there are no bats there. No further surveys of trees with low or negligible potential bat roost features are required. There is potential to enhance bat roosting potential by installing bat boxes at the site on south-easterly through to south-westerly aspects. Retaining and planting of bat friendly trees, shrubs, and plants as part of works will enhance the habitat and as favourable habitat will remain in the wider local area it is not anticipated that there will be any long-term detrimental impact to foraging bats by the proposed work.

6.3 Potential impacts of development

It is not foreseen that the proposed work at the site will have a long-term detrimental impact to the bat population in the surroundings of site. There is potential to enhance bat roosting potential by installing bat boxes on south-easterly through to south-westerly aspects. Retaining and planting of bat friendly trees, shrubs and plants at the site will enhance the habitat for foraging bats. However, it cannot be guaranteed that a bat will not be found once work commences and any contractors on site should be aware of the potential of bats during works, and what to do in the event a bat is discovered.

7. NESTING BIRDS

There was evidence of common birds nesting in the trees and shrubs, including blackbirds and robins. All nesting birds receive legal protection therefore, any vegetation clearance or tree felling works should be timed to take place outside of the nesting season where feasible. It is recommended that for any vegetation clearance or tree felling works which are scheduled to take place during the breeding bird season, which is defined as April to July inclusive, that a breeding bird survey is carried out prior to any works taking place. In the event, that the pre-works survey discovers any nesting birds, or that after work has begun an active nest site is identified the nest site should be protected. An appropriate buffer zone depending on the species concerned and determined by an experienced ecologist should be maintained and works suspended in that area until the nest is no longer active. There is potential to provide alternative nesting opportunities for birds by installing nesting boxes at the site.

8. OTHER PROTECTED SPECIES

Protected species which have been previously recorded within 5km of the site include European water vole, otter, badger, and red squirrel. There was no evidence of these or any other protected species at the site.

9. RECOMMENDATIONS and MITIGATION

1. No further surveys are recommended at this time for trees with low or negligible potential unless sufficient new evidence is found to upgrade the tree category (BS 8596, 2015, p.18).
2. Bat roosts in trees can be difficult to find and there may be occasions when they are discovered after work has commenced, even though the correct pre-start roost assessment procedure has been followed. In the event, that bats or bat roosts are discovered during tree work operations, work should cease immediately or as soon as it is safe to do so, with the least possible further disturbance to the tree. NatureScot, formally Scottish Natural Heritage, and a licensed bat worker should be contacted as soon as possible, and the tree work should not recommence without the approval of the bat worker and the acquisition of any licence that might on their advice be required.
3. In the event the work results in live bats being discovered loose on the ground they should be placed in a well-ventilated dark container or box pending arrival of the bat worker, and fresh water should be provided in a shallow container such as a jam jar lid. Bats should never be handled with bare hands, and clean gloves should be worn while moving them.
4. Bat boxes installed on SE though to SW elevations, above 3m height will enhance roosting opportunities for bats in the area.

5. Any vegetation clearance or tree felling works should be timed to take place outside of the nesting bird season where feasible, or the site surveyed before work commences where work takes place during the nesting season. Provision of alternative nesting locations for common birds is recommended with the provision of bird boxes.
6. Retaining and planting of bat friendly trees, shrubs and plants will enhance the habitat for bats. *Appendix 4 Bat Friendly Plants*

10. REFERENCES

Bat Conservation Trust, 2015, “Encouraging bats - A guide for bat-friendly gardening and living” [Online]. Available at https://cdn.bats.org.uk/pdf/Resources/Encouraging_Bats.pdf?mtime=20181101151549&focal=none (accessed 17th June 2021)

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Collins, J (2016) “*Bat Conservation Trust, Bat Surveys for Professional Ecologists: Good Practice Guidelines, 3rd Edition*” [Online]. Available at https://cdn.bats.org.uk/pdf/Resources/Bat_Survey_Guidelines_2016_NON_PRINTABLE.pdf?mtime=20181115113931 (accessed 17th June 2021)

11. APPENDICES

- Appendix 1 Location Plan
- Appendix 2 Proposed Site Plan
- Appendix 3 Tree Locations and Numbering
- Appendix 4 Bat Friendly Plants

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Appendix 1 Location Plan



New Dwelling House Mill Road Barry

Site Location Plan

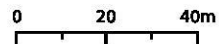
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- Land relating to this application
- Adjoining land that we own

Produced: 14/12/2020

Reference: 20-B2693577-1

Scale: 1:1,250 (at A4)

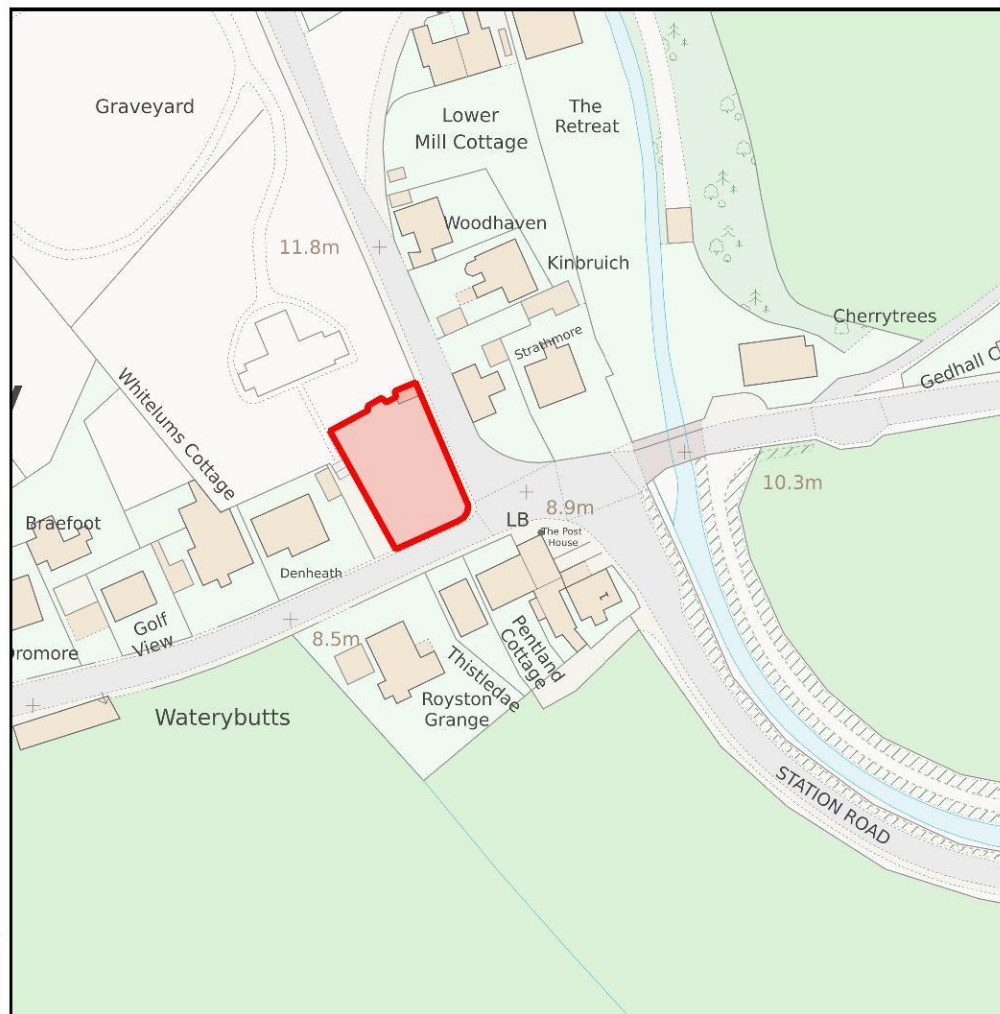


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This map contains Ordnance Survey data.

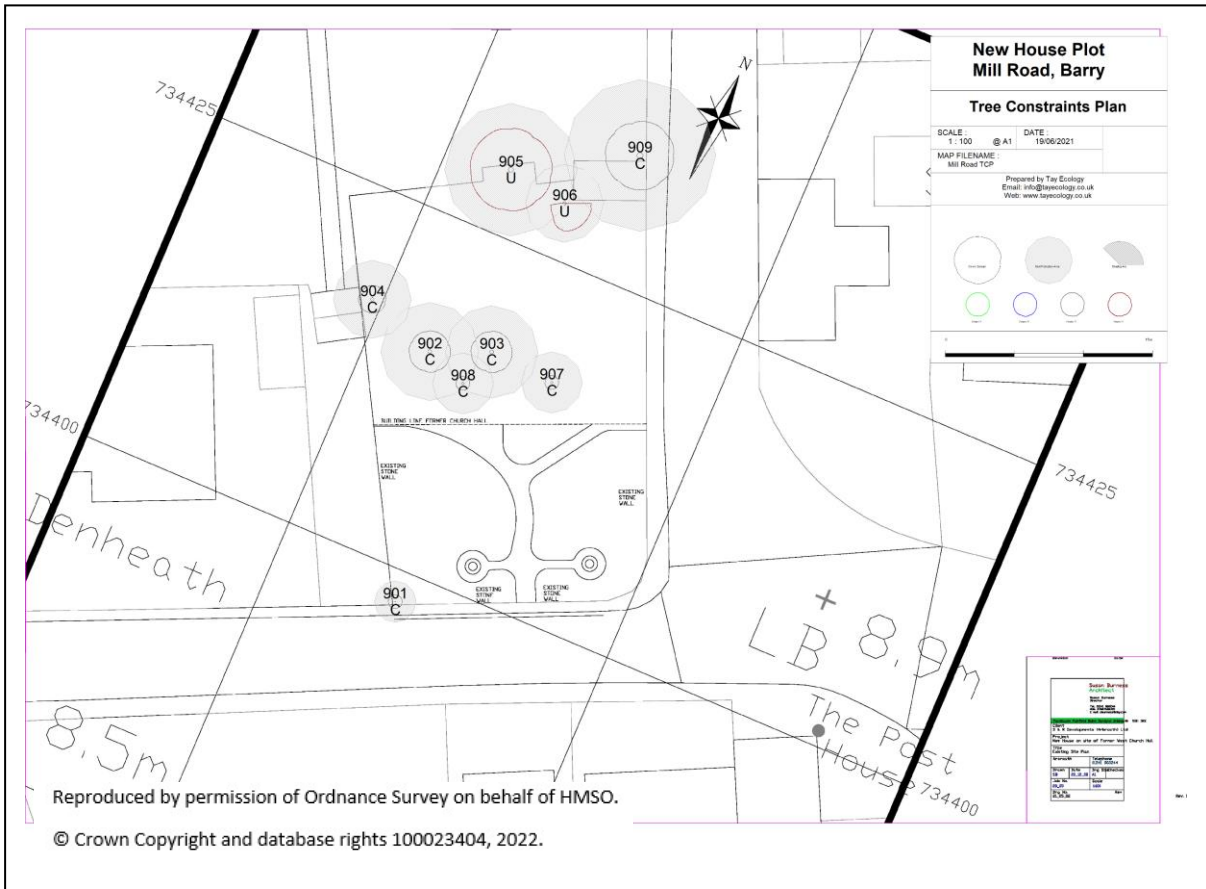
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Appendix 3 Tree Locations and Numbering



Appendix 4 Bat Friendly Plants

From BCT (2015) Encouraging bats - A guide for bat-friendly gardening and living

Planting a mixture of flowering plants, trees and shrubs will attract a range of insects which in turn will attract different bat species.

Flowers for borders

Aubretia	Night-scented stock
Bluebell	Ox-eye daisy
Candytuft	Phacelia
Cherry pie	Poached egg plant
Corncockle	Primrose
Cornflower	Red campion
Corn marigold	Red valerian
Corn poppy	Scabious
Echinacea	St John's wort
Field poppies	Sweet William
Honesty	Tobacco plant
Ice plant "Pink lady"	Verbena
Knapweed	Wallflowers
Mallow	Wood forget-me-not
Mexican aster	Yarrow
Michaelmas daisy	Night-scented stock

Herbs

Angelica	Hyssop
Bergamot	Lavenders
Borage	Lemon balm
Coriander	Marjoram
English marigolds	Rosemary
Fennel	Sweet Cicely
Feverfew	Thyme

Trees, shrubs, and climbers

Bramble	Hawthorn
Buddleia	Hazel
Common alder	Honeysuckle
Dog rose	Hornbeam
Elder	Ivy
English oak	Jasmine
Gorse	Pussy willow
Guelder rose	Rowan

Wildflowers for pond edges and marshy areas

Bog bean	Marsh marigold
Bugle	Marsh woundwort
Creeping jenny	Meadowsweet
Flag iris	Purple loosestrife
Hemp agrimony	Water avens
Lady's smock	Water forget-me-not
Marsh mallow	Water mint

LANDSCAPING AND BIODIVERSITY



It is clear from the Tree survey and correspondence from the Structural Engineer that.

- The existing trees to the rear of the site require to be removed, irrespective of whether the development goes ahead.
- On removal of the trees underpinning will be required to the existing retaining wall, irrespective of whether the development goes ahead.
- A further 3 trees have root systems currently adversely affecting the existing wall. Again, this requires to be addressed irrespective of whether the development goes ahead.
- The remaining trees on site are non-native low-quality trees of little ecological value.
- The proposals include replacing existing trees with native trees.
- The proposals will enhance biodiversity and have a positive ecological impact.

The existing open space will not be lost due to the development as the new house is located on the brownfield part of the site.

With regards to statements from objectors.

The open space to the south of Main Street, which is apparently currently used as garden ground, is not part of the curtilage of a dwelling house.

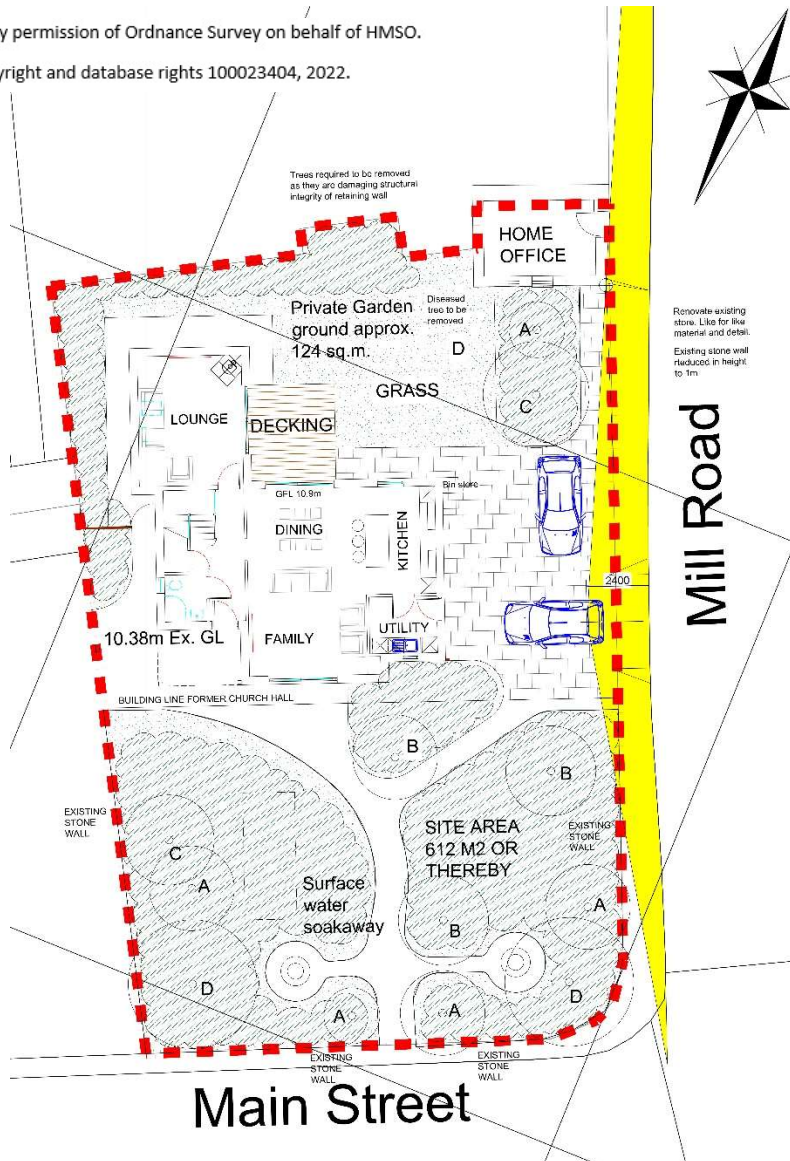
- As it is on the other side of the road to residential properties
- Is out with the Barry development boundary.

It is therefore subject to the same statutory rights of access as the development site.

It is clear from our submission and comments from objectors that action requires to be taken to address the current condition of the site. The current proposals present the opportunity to resolve these issues while still maintaining a green landscaped corner to the junction of Mill Street and Main Road.

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TREES

A- Crab Apple
(*Malus sylvestris*)
10 m

B- ROWAN
(*Sorbus aucuparia*)

C- Whitebeam
(*Sorbus intermedia*)

D- SILVER BIRCH
(*Betula paedula*)

SHRUBS

A-HOLLY
(*Ilex aquifolium*)

B-EARED WILLOW
(*Salix aurite*)

C-BLACKTHORN
(*Prunis spinosa*)

D-HAZEL
(*Corylus avellana*)

E-DOG ROSE
(*Rosa canina*)

F- JUNIPER
(*Juniperus comm.*)

WILDFLOWERS AND FERN

Native Bluebell

Globeflower

Melancholy Thistle

Wild garlic

Violet Primrose



MIXTURE OF NATIVE SHRUBS
AND WILD FLOWERS AND FERN TO
PROMOTE BIODIVERSITY

**Tree Survey and Arboricultural Impact Assessment
For New House Plot, Mill Road, Barry, Carnoustie, Angus**

Friday 18th June 2021



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PART 1 - EXECUTIVE SUMMARY

1.1 Proposal

It is proposed to construct a dwelling house at the site on Mill Road, Barry, Angus. A tree survey written in accordance with British Standard Institute publication BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' is required.

1.2 Tree and Shrub Survey

A tree survey was carried out by the surveyor on 14th June 2021. The trees were recorded as T901-T909, a total of nine trees were surveyed. All trees surveyed were assigned to the category A, B, C or U classification.

1.3 Arboricultural Impact Assessment

It is proposed to fell the nine trees surveyed on the site. The trees are all Category U which would not be realistically retained, and Category C trees which under normal circumstances would not be required to be retained in a development context, unless in a location where they do not represent a significant constraint on the proposal. The trees include seven non-native conifers three of which have been previously shaped/cut, three of these trees have roots impacting the boundary wall, and all are of limited ecological value. Four of the conifers are in the development footprint and would cause severe constraints if retained. There are two deciduous trees both of which have significant amounts of deadwood in the main stems and whose roots are detrimentally impacting the stone structures at the site. As it is not proposed to retain any tree there are no RPAs which will be impacted by the development. It is anticipated that the loss of trees at the site can be compensated for by planting native trees, shrubs, and plants in the garden of the property which will enhance the biodiversity of the site and improve its ecological value.

1.4 Tree Protection

Tree protection is not required as it is not proposed to retain any trees. It is recommended that the area of proposed garden ground is protected during construction to avoid compaction of the ground. Recommendations for protection barriers and ground protection are provided.

1.5 Conclusion

The impact of the proposed development can be satisfactorily mitigated against to ensure that there is no long-term detrimental impact at the site. The arboricultural impact is high in the short-term, reducing to low in the medium to long-term with new planting appropriate for the site. Planting native trees, shrubs and plants will enhance the biodiversity of the site and improve its ecological value.

PART 2 - GENERAL INFORMATION

2.1 Brief From Client

A tree survey is required written in accordance with British Standard Institute publication BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations'.

2.2 Proposed Works

It is proposed to construct a dwelling house on the site at Mill Road, Barry. The site is at an altitude of 10m above sea level at grid reference NO 533 343.

2.3 Documents Referred To

The British Standard Institute publication BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' is referred to throughout this report. This is a nationally recognised standard typically used by Local Planning Authorities (LPAs) to assess planning applications. It is frequently referred to in planning conditions to enforce protection or control of works that may be harmful to trees both on and off the site.

2.4 Documents Received

List of documents received from client or a representative of the client:

21-05-02 Rev A Design Proposals

21-05-03 Site Analysis

21-05-04 Site Plan

2.5 Limitations

2.5.1 This report was prepared for use by our client in accordance with the terms of the contract and for planning purposes only. Information provided by third parties used in the preparation of this report is assumed to be correct.

2.5.2 All trees have been inspected from ground level only using established visual assessment methodology. This is primarily a survey to assess the general health, condition, value, and life expectancy of existing trees as part of the planning and design process. This report is not a detailed document on tree safety.

2.5.3 The morphology of tree roots is influenced by past and present site conditions and tree management, eg. soil type, drainage, and local topography. The RPAs of trees may be exaggerated. RPAs are indicated on the plans as being centred around each stem, note that the actual protection area is often skewed because localised features (such as local topography etc.) make rooting conditions unfavourable on one or more sides of the tree.

2.5.4 Trees are dynamic living organisms, whose health and condition can be subject to rapid change, depending on a number, of external and internal factors. The conclusions and recommendations contained in this report relate to the trees at the time of inspection. The findings and recommendations are valid for twelve months and it is strongly recommended that trees are inspected at regular intervals and after extreme weather events for reasons of safety.

2.5.5 Whilst every effort has been made to detect defects within the trees inspected, no guarantee is given as to the absolute safety or otherwise of any individual tree. Extreme climatic conditions can cause damage to apparently healthy trees.

2.5.6 The findings and recommendations contained within this report are based on current site conditions. The construction of roads, buildings, service wayleaves, removal of shelter, and alterations to established soil moisture conditions can all have a detrimental impact on the health and stability of retained trees. Accordingly, a re-inspection of retained trees is recommended on completion of any development operations.

2.5.7 This report has been prepared for the sole use of the client and their appointed agents. Any third party referring to this report or relying on information contained within it does so entirely at their own risk.

2.6 Personnel

Emma has worked in the environmental sector for seventeen years, including twelve years predominantly focused on woodland management, during which time she has gained a wealth of experience and expertise. Emma has been qualified in arboriculture and ground level tree operations for fifteen years, has carried out tree surveys for nine years, and holds the Lanta Tree Survey and Inspection Award. During the last seven years she has worked as an ecological and arboricultural consultant for Tay Ecology with lead responsibility for development projects. She graduated with a BSc from University of Edinburgh, has a Postgraduate Diploma in Environmental Management and is a member of the Arboricultural Association and Institute of Environmental Management and Assessment.

PART 3 – TREE SURVEY

3.1 METHODOLOGY

3.1.1 Trees on and adjacent to the proposed development site where these trees may be impacted by the proposed work have been recorded. Nine trees are numbered T901-T909, tree species include Lawson cypress, ash and elder.

All trees surveyed were assigned to the category A, B, C or U classification.

3.1.2 Data was collected in accordance with the requirements of British Standard 5837:2012. All observations were from ground level, with the aid of binoculars, without detailed or invasive investigations. Measurements were taken using a tape measure, clinometer, and laser measure. Where this was not possible or reasonably practical, measurements have been estimated by eye.

3.1.3 The trees were surveyed and assessed impartially and irrespective of the proposed development. Management recommendations should be implemented regardless of any proposed development for reasons of sound arboricultural management or safety.

3.1.4 BS 5837:2012 requires retention of better quality (category A and B trees) where possible. Planning permission overrides a Tree Preservation Order and Conservation Area. Furthermore, trees are a material consideration in the UK planning system irrespective of their legal status. It is therefore not considered necessary to highlight or give additional merit to trees that have legal protection.

3.1.5 All category A, high & B moderate quality and value trees will, where possible, be retained on development sites, and should influence and inform the design, site layout, and in some cases the specific construction methods to be used. The root protection areas of these trees will generally form a construction exclusion zone, although under certain circumstances it may be possible to build within these areas providing that appropriate, specifications have been agreed between the local planning authority, the consulting arboriculturist and the developer/client.

3.1.6 As regards category C trees; under normal circumstances these would not normally be required to be retained in a development context, unless in a location that they do not represent a significant constraint on the proposal. See relevant note at foot of Cascade diagram BS 5837:2012.

3.1.7 All category U trees should be removed for reasons of sound arboricultural practice or health & safety, irrespective of any development proposals.

3.1.8 Trees may be recorded as group or woodland where:

- i) The canopies touch.
- ii) The trees have more group value than individual merit.
- iii) They are part of a formal landscape feature like an avenue.
- iv) It is impractical to record them individually.

3.1.9 Where trees within groups or woodlands etc. are recorded together, it may be necessary to record individual trees where it is necessary to distinguish them from others, this may be required initially, eg. if a tree is in category U, or at a subsequent stage as the design process evolves.

3.2 ANALYSIS

3.2.1 Site Description

It is proposed to construct a dwelling house on the site at Mill Road, Barry. The site is at an altitude of 10m above sea level at grid reference NO 533343. The area is dominated by an overgrown garden, with a small number of trees and shrubs around the perimeter. Trees range in age from young to mature and comprise two deciduous and seven coniferous species.

3.2.2 Species

Tree species include: *Abies sp.*, Lawson cypress *Chamaecyparis Lawsoniana*, Ash *Fraxinus excelsior*, Elder *Sambucus nigra*.

3.2.3 Categories

The trees recorded are category C 78% and U 22%. The distribution of categories of individual trees is as follows:

BS 5837 Category	Number of Trees	% Trees
A	0	0
B	0	0
C	7	78
U	2	22
Total	9	100

3.2.4 Life stage

34% mature, 22% over-mature and 44% early-mature trees recorded.

The life stages recorded for individual trees are summarised as follows:

Life Stage	Number of trees	% of Trees
Young	0	0
Semi-mature	0	0
Early-mature	4	44
Mature	3	34
Over-mature	2	22

3.3 Tree Survey Schedule

Ref.	Species	Hgt. (m)	DBH (mm)	Branch spread (m)				Clr (m)	Life stage	General observations	Condition & Vigour	ERC	Cat.	RPA (m)	Proposed Work
				N	E	S	W								
Trees															
901	L.Cypress	3	6 x <100	0.5	0.5	0.5	0.5	1.5	EM	Multi-stemmed tree with 6 stems less than 100mm – 100;70;60;30;30;30. Previously cut stems at base. At SW corner of site adjacent to roadside and site walls along 2 boundaries, limited growth potential, roots in wall, damaging structural integrity of wall. Proposed removal of tree and roots to limit structural damage.	Fair Moderate	10+	C2	1.47	Fell
902	L.Cypress	4	180;140; 140;110	1.5	1.5	1.5	1.5	1.5	M	Multi-stemmed, previously cut stems at base and shaped for garden.	Fair Moderate	10+	C2	2.72	Fell
903	L.Cypress	4	180;150; 140	1.5	1.5	1.5	1.5	1.5	M	Multi-stemmed, previously cut stems at base and shaped for garden.	Fair Moderate	10+	C2	2.46	Fell
904	Abies sp.	7	230	0.5	0.5	0.5	0.5	0.2	EM	Adjacent to stone wall on SW boundary, limited growth potential, roots in wall, damaging structural integrity of wall. Propose removal of tree and roots to limit structural damage.	Fair Moderate	10+	C2	2.76	Fell
905	Ash	9	280;220; 160	3	3	3	3	1	OM	Bifurcated stem growing from significantly larger base indicates previous cutting of tree. West limb splits into 2 stems. Deadwood visible in main stems on west and east sides. Adjacent to stone wall on NW boundary, limited growth potential, roots in wall, causing substantial damage to wall. Propose removal of tree and roots to limit damage.	Poor Low	10-	U	3.26	Fell
906	Elder	4	230	0	2	2	1	1	OM	Leaning substantially to east at corner of small building. Deadwood in main stem and decay fungi <i>Auricularia auricula-judae</i> on stem. Roots causing structural damage to foundations of building. Propose removal of tree and roots to limit damage.	Poor Low	10-	U	2.76	Fell
907	L.Cypress	3	180	0.5	0.5	0.5	0.5	0.2	EM	Shaped for garden.	Fair Moderate	10+	C2	2.16	Fell
908	L.Cypress	3	180	0.5	0.5	0.5	0.5	0.2	EM	Shaped for garden.	Fair Moderate	10+	C2	2.16	Fell
909	L.Cypress	6	310;320	2	2	2	2	0.5	M	Substantial tree located above the NE boundary wall, branches overhanging existing small building. Roots causing structural damage to wall, and it is proposed this tree is felled to limit damage.	Fair Moderate	10+	C2	3.84	Fell

KEY

Ref: Reference number assigned to that item with a code to help identification such as T = tree

Hgt: Height of the tree in metres rounded up to the nearest half metre.

DBH: 'Diameter at Breast Height' – the stem diameter measured in millimetres at 1.5m above ground level, to the nearest 10mm. Where the ground around the base of the tree is not level this is taken 1.5m above the upper side of the slope.

Crown Spread: The crown spread is given to four cardinal points, rounded up to the nearest half metre.

Clr: 'Crown clearance' is the height of the lowest branch above ground level, with the general direction it is growing to a cardinal point.

Life Stage: Recorded with codes as follows, and relative to the species of the tree: Y – Young; EM - Early-mature; M – Mature; OM - Over-mature; D – Dead.

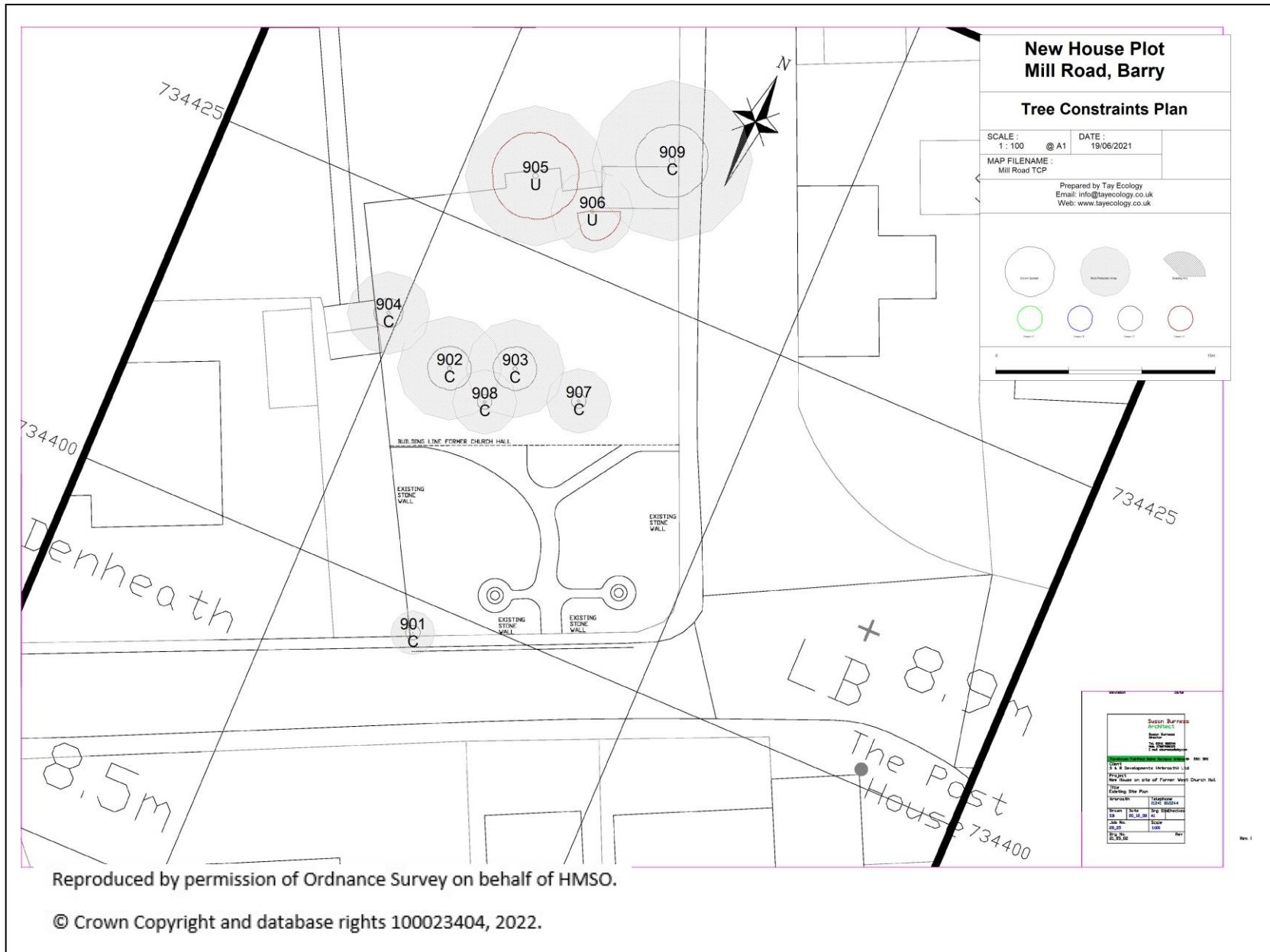
General observations: includes notes on structural defects, physiological problems, special features, decay and management recommendations. Please note that management recommendations do not constitute a specification for any required works.

Condition: Good = Healthy tree with no major defects, considerable life expectancy, with good shape or form; Fair = Healthy tree with easily remedied defects, shorter life expectancy, with reasonable shape or form; Poor = Tree with significant structural defects and/or decay, low vigour, under stress, limited life expectancy and with inferior shape and form; Dead = Dead, dying, and dangerous trees, very low vigour, severely limited life expectancy, serious structural defects and/or decay.

ERC: 'Estimated remaining contribution', recorded in a range of years is the amount of time the tree can realistically be retained for.
<10 - Unsuitable for retention; 10-20 - Can be retained in the short term; 20-40 - Will continue to offer benefits for the foreseeable future; 40+ - Good longevity potential

Cat.: 'Category grading', a full explanation of the categories is given in an excerpt from BS 5837:2012 in the cascade chart, appendix 2.

RPA: 'Root protection area', appears on the survey plan and is calculated by multiplying the stem diameter using one of three methods specified in BS 5837:2012 depending on the number of stems the tree has. This should be considered an indication only as various factors may influence the size and shape of the RPA, such as past and present site conditions, and ground constraints such as roads, underground services, soil type, drainage, and topography.



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3.4 Tree Constraints Plan

A tree constraints plan has been produced for the site. The trees were recorded as T901-T909, a total of nine trees were surveyed across the site.

The morphology of tree roots is influenced by past and present site conditions and tree management, eg. soil type, drainage, and local topography. The RPAs of trees may be exaggerated. At this site T905, 906 and 909 RPAs are limited by the change in height.

3.5 Site Photographs Trees

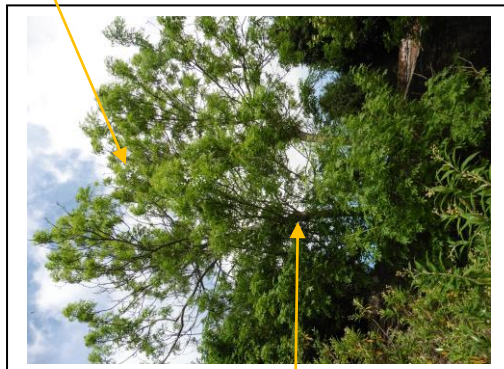
T901



T903 and 902



T905



T906 and 909



Deadwood in stems



PART 4 – ARBORICULTURAL IMPACT ASSESSMENT

4.1 LOSS OF TREES

It is proposed to fell the nine trees surveyed on the site. The trees are all Category U which would not be realistically retained, and Category C trees which under normal circumstances would not be required to be retained in a development context, unless in a location where they do not represent a significant constraint on the proposal. The trees include seven non-native conifers three of which have been previously shaped/cut, three of these trees have roots impacting the boundary wall, and all are of limited ecological value. Four of the conifers are in the development footprint and would cause severe constraints if retained. There are two deciduous trees both of which have significant amounts of deadwood in the main stems and whose roots are detrimentally impacting the stone structures at the site. It is anticipated that the loss of trees at the site can be compensated for by planting native trees, shrubs, and plants in the garden of the property which will enhance the biodiversity of the site and improve its ecological value.

4.2 INCURSION INTO ROOT PROTECTION AREAS

As it is not proposed to retain any tree there are no RPAs which will be impacted by the development.

4.2.2 Protective Fencing

Tree protection is not required as it is not proposed to retain any trees. It is recommended that the area of proposed garden ground is protected during construction to avoid compaction of the ground. The fence creates a physical barrier between the construction area and the Construction Exclusion Zone (CEZ). The provisional Ground Protection Plan gives an indicative positioning for the placement of protective fencing and construction exclusion zones. A specification for protective fencing is given in Appendix 3.

4.3 ABOVE GROUND CONSTRAINTS

4.3.1 Landscaping

Planting of native trees, shrubs and plants will be planned in the garden to enhance the existing habitat.

4.4 CONCLUSIONS

The impact of the proposed development can be satisfactorily mitigated against to ensure that there is no long-term detrimental impact at the site. The arboricultural impact is high in the short-term, reducing to low in the medium to longer-term with new planting appropriate for the site. Planting native trees, shrubs and plants will enhance the biodiversity of the site and improve its ecological value.

PART 5 – GROUND PROTECTION PLAN

5.1 GENERAL

5.1.1 The client and agent shall ensure that:

- the site manager and all other personnel are provided with this document.
- all planning conditions relating to underground works, services, trees, and landscaping are cleared before development commences.
- all requirements of this Ground Protection Plan are adhered to.
- the site manager is updated of any approved changes or variations to this document.

5.1.2 The client and site manager shall ensure that:

- a copy of this document with the ground protection plan is easily accessible for site personnel to refer to before and during the time construction activity is taking place.
- all personnel working on the site are made aware of the ground protection plan and arboricultural method statements covering any activities they will undertake. This duty includes delegating the task of briefing personnel in the absence of the site manager.
- The ground protection measures are left in place until the construction phase of development is completed.
- site personnel are updated of any approved changes to approved ground protection measures.

5.1.3 Procedures for incidents

If any breach of the approved ground protection measures occurs:

- The Planning Officer and Tay Ecology are informed.
- The site manager must be informed immediately.
- Swift action must be taken to halt the breach and prevent any further breach.
- Damage mitigation measures appropriate to the scale of incident, deployed where required.

5.1.4 Prohibited Activities

The following must not be carried out under any circumstances:

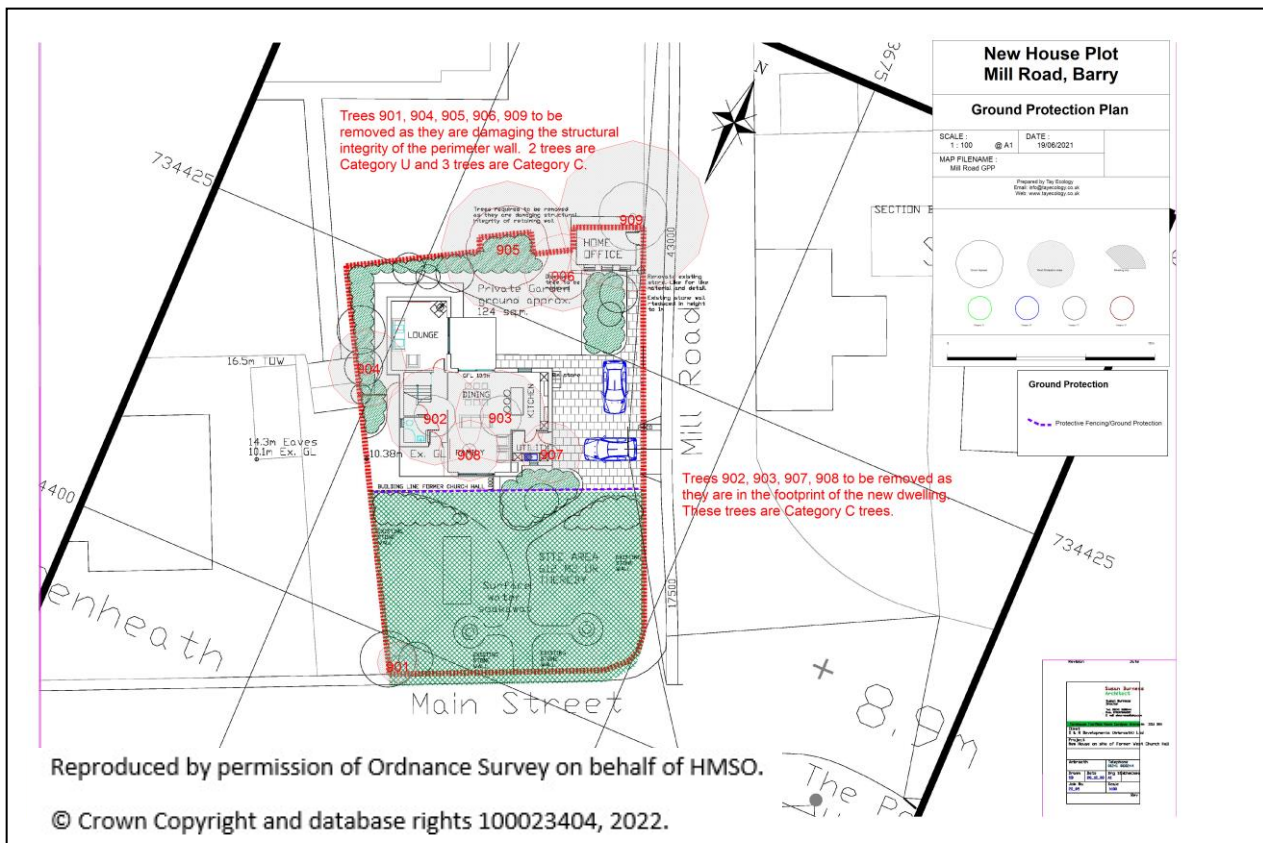
- Cutting down, uprooting, damaging or otherwise destroying any retained vegetation.
- Lighting a fire within 10 metres of the canopy of any retained vegetation.
- Equipment, signage, fencing, tree protection barriers, materials, components, vehicles, or structures shall not be attached to or supported by any retained vegetation.
- Mixing cement, chemical toilets and other use or storage of anything that would be harmful to vegetation shall not take place within, or close to any vegetation. The distance away from the vegetation must be sufficient, and site slope must be such that contamination of soil would not occur if there were spillage, seepage, or displacement.
- No plant or vehicle with a hydraulic arm such as a mini digger shall be operated within striking distance of any retained vegetation unless otherwise specified.

5.1.5 No alterations or variations shall be made to the approved ground protection measures without written approval from the LPA.

5.1.6 Timing and order of operations

The development must be carried out in the following order unless otherwise agreed in writing with the LPA. Each step must be completed before moving onto the next:

- i. Tree felling
- ii. Installation of ground protection barriers and temporary ground protection.
- iii. Construction.
- iv. Removal of the remaining ground protection and barriers.



PART 6 – REFERENCES

British Standard 5837:2012 ‘Trees in relation to design, demolition and construction - Recommendations’

British Standard 3998:2010 ‘Tree work – Recommendations’

PART 7 – APPENDICES

Appendix 1 – Terms and Definitions

Appendix 2 – Tree Category Codes

Appendix 3 – Protective Fencing Specifications

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APPENDIX 1 TERMS AND DEFINITIONS

1.0 Arboricultural Method Statement

Guidelines for specified working operations near trees to avoid any harmful impact as defined within BS 5837:2012, may cover works from tree work to operating cranes, installing foundations or services and guidelines for engineering performance to function as a tree protection measure.

1.1 Ground Protection

In this context the term refers to a method for preventing the ground from being disturbed, usually within the Root Protection Areas of retained trees. Other uses include protection areas to be planted. The way ground protection should be designed to perform is typically described within an Arboricultural Method Statement.

1.2 Root Protection Area (RPA)

A minimum recommended area for tree protection in 'BS 5837:2012 Trees in Relation to Construction'. In these areas works should be avoided where possible. Where work in these areas cannot be avoided, it should be carried out in accordance with a Tree Protection Plan and / or Arboricultural Method Statement.

1.3 Tree Constraints Plan

As defined within BS 5837:2012. This plan shows above and below ground constraints that may impact on a planning proposal such as the tree branch spread and Root Protection Area.

1.4 Tree Preservation Order (TPO)

A type of land charge which specifies certain trees for protection under the Town and Country Planning Act (1990) that makes it necessary to make an application to the LPA to work on them (with notable exceptions) and a criminal offence to otherwise damage or destroy them.

1.5 Conservation Area

Normal TPO procedures apply, if a tree is not covered by a TPO, written notice to the LPA detailing any proposed work must be given at least 6 weeks before work starts. Notice of work is not required where the tree has a diameter of less than 75mm, measured 1.5m above the ground, or 100mm diameter if thinning to enable the growth of other trees.

APPENDIX 2 TREE CATEGORY CODES

Cascade chart for tree quality assessment from BS 5837:2012

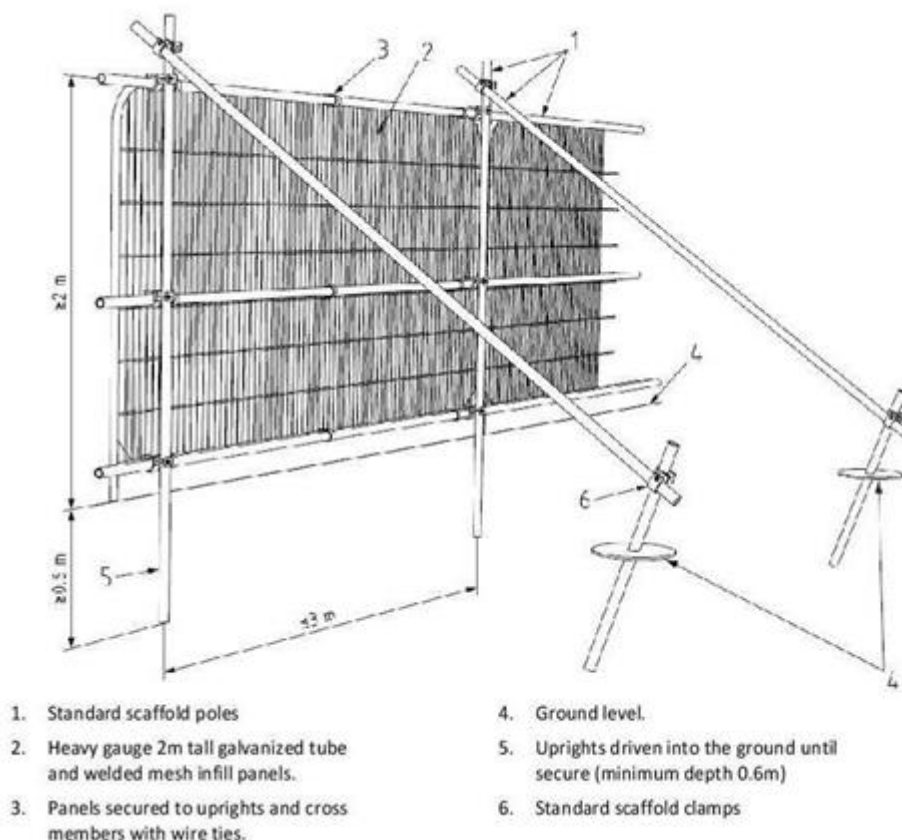
Category and definition	Criteria (including subcategories where appropriate)			Identification on plan
Trees unsuitable for retention				
Category U Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years.	Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (eg. Where, for whatever reason, including the loss of companion shelter cannot be mitigated by pruning)			Dark red
	Trees that are dead or are showing signs of significant, immediate and irreversible overall decline.			
	Trees infected with pathogens of significance to tree health and/or safety of other trees nearby, or very low-quality trees suppressing adjacent trees of better quality. <i>NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve.</i>			
Trees to be considered for retention				
	1 Mainly arboricultural qualities	2 Mainly landscape qualities	3 Mainly cultural values, including conservation	
Category A Trees of high quality with an estimated remaining life expectancy of at least 40 years.	Trees that are particularly good examples of their species, especially if rare or unusual; or those that are essential components of groups or formal or semi-formal arboricultural features (eg. The dominant and/or principal trees within in an avenue).	Trees groups or woodlands of particular visual importance as arboricultural and/or landscape features.	Trees, groups or woodlands of significant conservation, historical, commemorative or other value (eg. Veteran trees or wood-pasture).	Light green
Category B Trees of moderate quality with an estimated remaining life expectancy of at least 20 years.	Trees that might be included in category A but are downgraded because of impaired condition (eg. Presence of significant though remediable defects, including unsympathetic past management and storm damage), such that they are unlikely to be suitable for retention for beyond 40 years; or trees lacking the special quality necessary to merit the category A designation.	Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality.	Trees with material conservation or other cultural value.	Mid blue
Category C Trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter of below 150mm.	Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories.	Trees present in groups or woodlands, but without this conferring on them significantly greater collective landscape value; and/or trees offering low or only temporary/transient landscape benefits.	Trees with no material conservation or other cultural value.	Grey
<i>NOTE: Whilst 'C' category trees will usually not be retained where they would impose a significant constraint on development, young trees with a stem diameter of less than 150 mm should be considered for relocation.</i>				

APPENDIX 3 PROTECTIVE FENCING SPECIFICATION

5.2.3 The default specification is a vertical and horizontal scaffold framework, braced to resist impacts, as per figure 1 below. The vertical tubes are spaced at a maximum interval of 3m and these are driven securely into the ground. Welded mesh panels are securely attached to the frame. During installation it is important to consider the position of below ground services and structural roots, which must not be damaged. Where these constraints prevent the use of this specification, an alternative specification is given below.

Figure 1 is taken from BS5837:2012 'Trees in Relation to Design, Demolition & Construction – Recommendations' and illustrates the systems to be employed for ensuring an adequate Construction Exclusion Zone about retained trees. Refer to BS5837:2012 for further details.

Figure 1 – default tree protection barrier specification



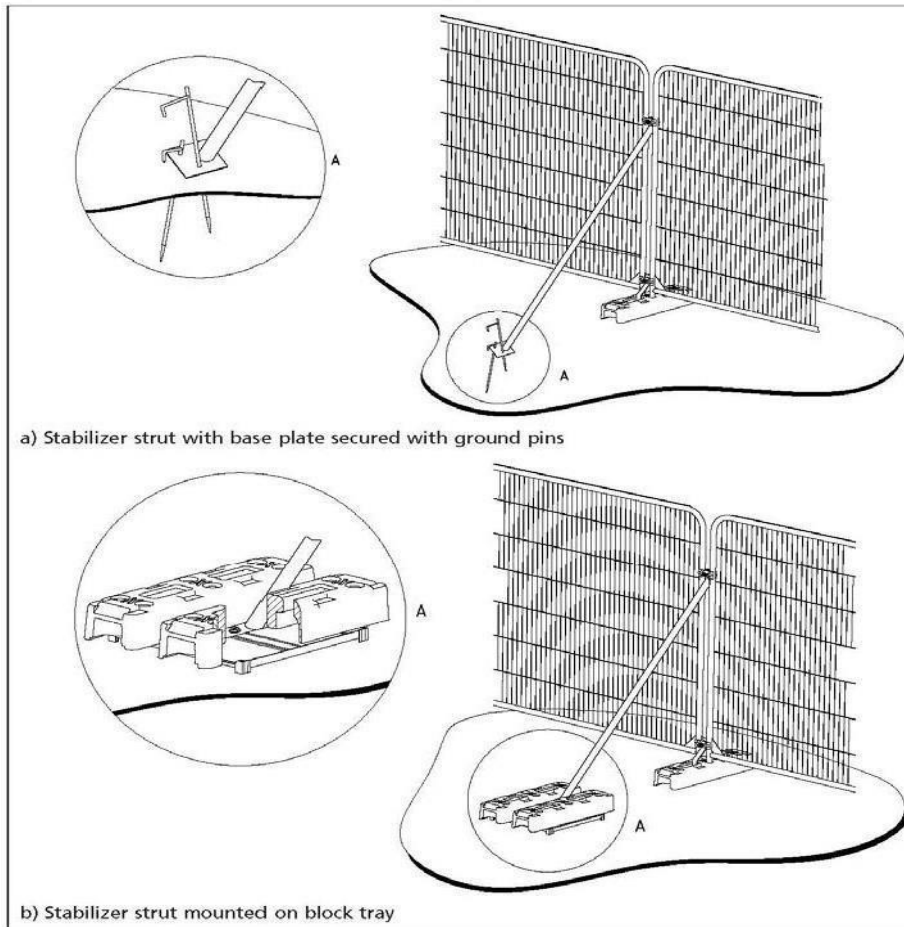
5.2.4 Alternative tree protection barrier design

2 metres high welded mesh panels standing in rubber or concrete feet joined using a minimum of two anti-tamper couplers installed so they can only be removed from inside the protected area. The fence couplers should be spaced at least 1m apart, but uniformly across the whole barrier. These panels must be supported within the protected area with struts attached to a base plate secured by ground pins as per figure 2a.

Where the fencing is installed above retained hard surfacing and/or it is otherwise not feasible to use ground pins (e.g. due to underlying services or structural roots), the struts can be mounted on a block tray as per figure 2b.

Figure 2 is taken from BS5837:2012 Trees in Relation to Design, Demolition & Construction – Recommendations and illustrates the systems to be employed for ensuring an adequate Construction Exclusion Zone about retained trees. Refer to BS5837:2012 for further details.

Figure 2 – above ground stabilising systems



Application for New House site of Former Church Hall Barry 21/00279/FULL

Please see attached images of garden ground taken on 1st August 2021.

As is clearly evident the ground is not used nor maintained. Contrary to statements from objectors it only looks worse during summer months.

The location of the proposed house is on the brownfield area of the site.

To refuse this application, due to the fact that planning consent will result in the former garden area being designated as contained within curtilage of a dwelling house, does not make any logical sense.

This area of land is not currently used, nor able to be used, as garden ground and given that;

- The congregation of Barry Church are no longer able to maintain it and
- The community is not willing to take on maintainance

there is no future prospect of this area of land being transformed back to well maintained garden ground should planning approval be refused. It will continue to deteriorate.

Should planning not be granted existing trees requiring removal and masonry structures located on this site will pose an ongoing risk to the public.











DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW – REST GARDEN, MAIN STREET, BARRY

APPLICATION NO 21/0279/FULL

APPLICANT'S SUBMISSION

Page No

ITEM 1	Notice of Review
ITEM 2	Supporting Statement
ITEM 3	Comments from Church of Scotland Law Department
ITEM 4	Tree Survey Report
ITEM 5	Bat Roost Assessment
ITEM 6	Landscaping and Biodiversity
ITEM 7	Design Proposals
ITEM 8	Site Analysis
ITEM 9	Site Plan



Angus House Orchardbank Business Park Forfar DD8 1AN Tel: 01307 473360 Fax: 01307 461 895 Email: plnprocessing@angus.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 100392883-002

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Building Name:

Last Name: *

Building Number:

Telephone Number: *

Address 1 (Street): *

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Fax Number:

Country: *

Postcode: *

Email Address: *

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Farmhouse Fairfield Mains"/>
First Name: *	<input type="text" value="Stewart"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Burness"/>	Address 1 (Street): *	<input type="text" value="Gardyne"/>
Company/Organisation	<input type="text" value="S & R Developments Ltd."/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Arbroath"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Angus"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DD11 3RX"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="sburness@sky.com"/>		

Site Address Details

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

Please identify/describe the location of the site or sites

Northing	<input type="text" value="734424"/>	Easting	<input type="text" value="353653"/>
----------	-------------------------------------	---------	-------------------------------------

Description of Proposal

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

Erection of a Dwelling House

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

The application has been refused due to loss of protected open space. We strongly disagree the with designation of the site as protected open space. The application site is brownfield and is not classed as open space within the local plan. Policy PV2 is so vague that any area of land outwith the curtilage of a dwelling house could be classified as open space. This area of land is not in use as a recreational area and there has been no community support, financial or practical to maintain it.

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

Yes No

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

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

Design and Access Statement Comments from Congregation Barry Parish Church Tree Survey Report Letter from The Church of Scotland Law Department Solicitors letter Tree and structural work required Comments and Images August 21_05_01 Location Plan 21_05_02 Rev. A Design Proposals 21_05_03 Site Analysis 21_05_04 Site Plan

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/00279/FULL

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

09/04/2021

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

24/11/2021

Review Procedure

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

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

Yes No

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mrs Susan Burness

Declaration Date: 11/01/2022

Planning Review

Supporting Statement



Description of Development: Planning Permission for Erection of a Single Dwelling house

Site Address: Mill Road, Barry, Carnoustie

Applicant: S & R Developments (Arbroath) Ltd.

It is clear from both documents submitted and the report of handling that the sole reason for refusal of the application for a dwelling house on this neglected brownfield site is the loss of open space. A brownfield site that still contains a building, masonry structures and the footprint of the former Church Hall.

In the first instance, as the site is within a rural settlement, it is surrounded by open space. It is stated there is a lack of open space in Barry and Carnoustie area generally, but we would suggest that this site does little to provide useful open space for the wider community. Particularly when compared to well used surrounding open spaces such as the nature trail and Barry Mill, which are all more accessible.

We appreciate there was a previous refusal for development of the site, however, after this community interest in the site quickly evaporated. All efforts to encourage community involvement in the maintenance of the site have been completely unsuccessful with the burden falling solely on the elderly congregation of Barry Parish Church both physically and financially. As stated in the report of handling, refusal of this application is in breach of the members of Barry Parish Church's human rights to peaceful enjoyment of their possessions and the use of the proceeds of this

development to secure the future of Barry Parish Church for the benefit of the congregation and the community it serves.

The site now needs significant investment to maintain masonry structures and remove invasive and non-indigenous vegetation.

The objections appear to stem from a sense of entitlement to use this ground because it is owned by the Church of Scotland, a sense of entitlement which does not appear to apply to other adjacent privately owned land.

Consideration was given during the design phase to develop the brownfield section of the site and retain some communal garden area to the south, however, due to lack of willingness of the community to engage in efforts to maintain the gardens it was decided that it would not be reasonable to impose this burden on a single dwelling house and the garden ground is proposed to be **retained** within the curtilage of the house.

The gardens are to be reinstated and enhanced as part of the current proposals and we do not believe loss of access to this privately owned land, which clearly is not currently used for recreational purposes, justifies refusal of this application.

Site Description

The application site which measures 612 square metres is located to the north of Main Street at its junction with Mill Road.

The North of the site, approximately 350sq.m. was formally occupied by West Church Hall.



Still retained on the site is a traditional stone building adjacent to the Northern boundary wall and the remains of the gable wall of the church hall, which forms part of the Eastern boundary.



After the demolition of the church hall, the site was becoming an eyesore and was tidied up in early 90s, by a Youth Club, which include young people linked to Barry Parish Church. The bench seat was put in and the well was made a feature of at that time. The garden was never created to be an official 'Rest Garden'.



Evidence of general rubbish building up in this area.



The foot print of the former Church Hall is predominantly hard standing covered with gravel and encroaching vegetation.

The Northern part of the site would be classified as a Brownfield site as per the definition.

Land which has previously been developed.

The term may cover.

- vacant or derelict land,
- land occupied by redundant or unused building and,
- development land within the development boundary where further intensification of use is considered acceptable.

The site complies with all the above.

The southernmost part of the site, approximately 262 sq.m., was previously garden ground associated with the former Church Hall.

It is not owned, managed, or maintained by the community.

Previous efforts to encourage community involvement in the maintenance of the garden area have been unsuccessful.

- In 2014/15, an open meeting was held to try to set up a local resident's group to look after the site.
- In 2018, there was an intention to form a residents' association under the Scottish Community Buyout scheme, but this has not happened.

The congregation of Barry Parish Church are getting older and are no longer able to maintain the garden ground either physically or financially.

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

Proposal

The application seeks planning permission for the erection of a new Dwelling house.

The proposed house, access, parking and private garden ground, are located within the footprint of the former Church Hall. The existing garden ground to the south of the site will remain private gardens.

The principal elevation faces south with a masonry wall in keeping with the former external wall of the church hall. The front elevation is 1 and $\frac{3}{4}$ storey and is in keeping with the scale of the adjacent properties.

There is a sitting area on the first floor with balcony providing views towards Panmuir Golf Club. Due to the location of the balcony, it does not provide any views into private garden ground of neighbouring houses.

Access to the site is off Mill Road. Parking is provided on site for 3 cars with sufficient turning space to allow vehicles to exit in forward gear.

Parking with hard standing and ramped access to level entrance will be provided for disabled use.

Transportation

The site has good access to public transport. There is a bus stop on Main Street and the site is also within walking distance of the train station.

Planning History

13/01129/PPPL Rest Gardens Main Street, Barry

Planning permission in principle for erection of a dwelling house

The planning application in principle was refused due to loss of an area of open space. No area of open space was identified or allocated within the previous application.

Applicant's Case

The proposal is for the redevelopment of vacant, underused and brownfield site within the defined Development Boundary. The former garden area is to be retained as private garden grounds.



The application site is bound to the north by a graveyard, to the east by Mill Road, to the south by Main Road and to the west by a pedestrian entrance to the graveyard. The boundaries of the application site consist of stonewalls of varying heights.



The area of land to be developed is a brownfield site within the development boundary.

There is no rights of access over this ground. Ref. Solicitors letter Appendix I.

In accordance with the local plan the proposals seek to maintain this private open space and the development of the northern section of the site will ensure this area is maintained and retained as a focal point in the village.

The existing well and stone feature located within the garden ground will be retained as focal points within the garden.



Developing the site for residential use will be to the benefit of the local area and streetscape as the former gardens will be restored and maintained as part of the development.

The character and visual amenity of the area will be preserved and enhanced.

Impacts on listed buildings - the application site does not contain any listed buildings or any scheduled ancient monuments.

Impacts on wildlife - the application site is not located in an area that is subject of any ecological designation and the natural heritage designations in the wider area would be adversely impacted by the development.

The application is for a residential development in a predominantly residential area and such a development would not alter the character of an area of established amenity or introduce significant change into a homogeneous area.

The application site is not specifically allocated and lies within the Development Boundary of Barry.

The current Local Development Plan indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

The application site is located out with the flood envelope of any existing watercourse.

The surface water will be dealt with via SUDS and soakaway located within the garden ground.

Existing Trees

Where possible existing trees on the site will be retained.

In accordance with Structural Engineers statement, trees growing at the base of the retaining wall will have to be removed as they are adversely affecting the structural integrity of the retaining wall. Further to removal of the trees the existing masonry walls will be underpinned as required. Ref Appendix II.

New planting using native species will be carried out.

Open space

As previously noted, the land is privately owned and not subject to any public rights of access or rights of way. The only rights of access are statutory rights of access, which equally apply to farmers fields and/ or other private land either within or out with the development boundary. Barry is a small village within the Carnoustie/ Barry development plan area. Like most of the small rural villages in Angus it does not have a public park or gardens. It does, however, have good access to the open countryside. In addition, the Carnoustie path network connects with Mill Road, Barry which runs along the west side of the site. In addition, the grounds of Barry Mill, Mill Road, Barry is a short walk from the site, has picnic area, play area, disabled access, and countryside walks.



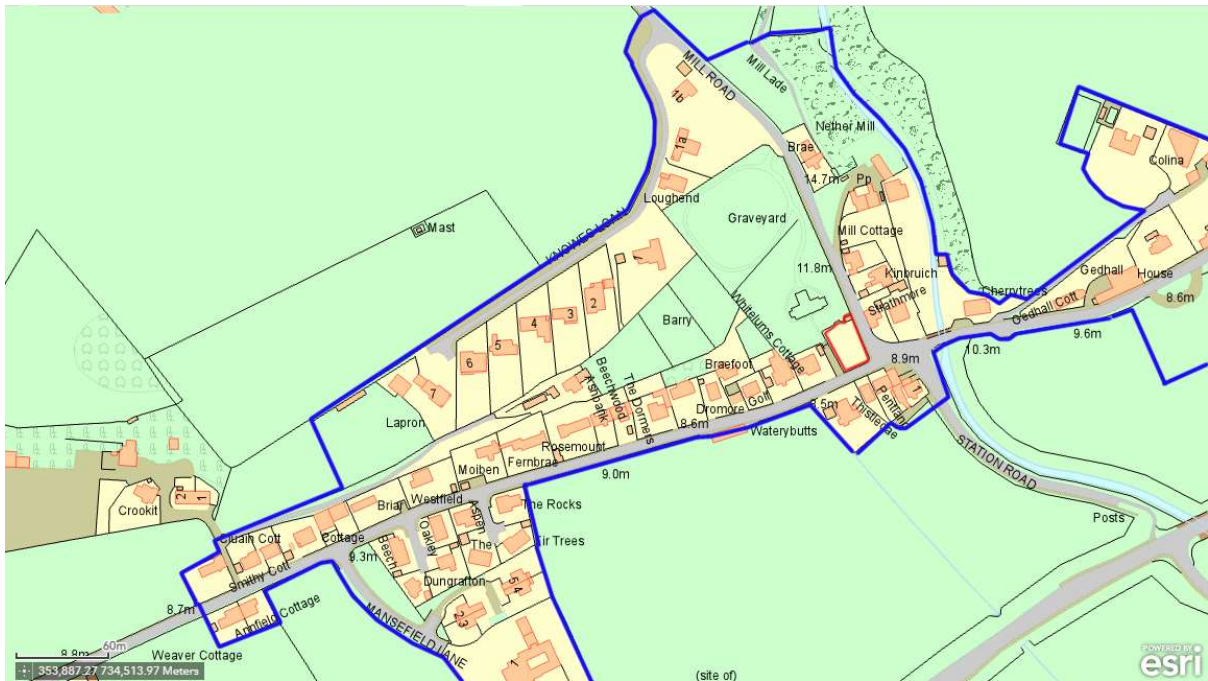
A Public Park or Garden, in accordance with Pan 65, is **managed and maintained**. In accordance with Pan 65 the garden ground would be designated as private garden or ground associated with an institution not a public garden. The institution being The Church or Scotland and the former Church Hall. Ref appendix III.

The former Church Hall Garden may be described as an open space under the following definition.

An area private garden/ grounds connected with a private house/ institution and not a public space.

The intension is that this open space is retained as private garden and will still be classed as open space in accordance with the above definition. The only difference is that it will be associated with a private house rather than an institution (Church of Scotland).

The site is, however, not identified as open space within the Angus Council Local Development Plan.



Barry is a rural settlement on the outskirts of Carnoustie, there is considerable amount of open space adjacent to the site. Both within and out with the development boundary

Conclusion

- In all locations, proposals that re-use or make better use of vacant, derelict, or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.
- The site is not allocated as open space in the current Local Development Plan
- The Local Development Plan indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- The works will remove dereliction and allow for repair of existing masonry structures, including the retaining wall.
- The open space associated with the former Church Hall Garden is to be retained.
- The development will bring the garden back into use and secure its future with ongoing maintenance.
- Well maintained garden ground associated with the new dwelling house will improve Barry Street scape.
- There is ample open space in the surrounding area.
- Attempts to attract community involvement with maintainance of the garden has been unsuccessful.
- Refusing the application will ensure dereliction is not removed by owners of land in the future as it will be deemed to risk successful outcome of any future development application.
- Refusing planning permission would deny the Church of Scotland the use of previously developed land for their benefit.

We respectfully request the planning application is approved as the proposed development is in accordance with the current local plan.

Appendix I



BAILLIE SHEPHERD
SOLICITORS & ESTATE AGENTS

37 Union Street, Dundee DD1 4BS
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Property Office
45 Union Street, Dundee DD1 4BS
Tel: 01382 201000

www.baillies-law.co.uk

Susan Burness
S & R Developments Limited
Fairfield Mains
Gardyne
Arbroath
DD11 2RX

Our Ref: AJB/VA/S & R01-01
Date: 25 January 2021
Please Contact: Alan Baillie
e-mail: alanb@baillies-law.co.uk

Dear Susan,

Proposed Purchase - West Church Hall, Main Street, Barry, DD7 7RP

We have now had a chance to examine all the titles for the above and can confirm that the ground on site, other than as built, is privately owned and not subject to any public rights of access or rights of way.

Yours sincerely,



Alan Baillie



Members of Tayside
Solicitor's Property Centre

Solicitors: Peter B. Shepherd LLB NP, Alan J. Baillie LLB NP, Kenneth Glass LLB NP,
Alison A. Mitchell BA LLB Dip LP NP, Tania Royle BA (Hons) LLB Dip LP
Property Manager: Joe Dolan

Licensed to conduct Incidental Financial Business by The Law Society of Scotland.

Baillie Shepherd is a trading name of Baillies Law Limited, registered in Scotland No. SC417843 at 37 Union Street, Dundee DD1 4BS.



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w www.firstscottish.com

CHURCH OF SCOTLAND
DX ED144
EDINBURGH

Date of Certificate: 29 December 2020
Certificate No: I01740462
Your Ref: SK/QO-BARRY

PROPERTY ENQUIRY CERTIFICATE

PROPERTY	
FORMER WEST CHURCH HALL, BARRY	
PLANNING	
Local Authority Area	Angus
Adopted Local Plan/Local Development Plan	Angus Local Development Plan
Zoning	Residential
Applications	None
Other Matters	None
BUILDING STANDARDS	
Applications	None
Notices	None
Other Matters	None
ENVIRONMENTAL HEALTH	None
HOUSING	None
CONTAMINATED LAND	None
CARRIAGEWAY AND ADJOINING FOOTWAY	
Status	Adopted
Road Proposals	None
WATER	See Schedule Over
DRAINAGE	See Schedule Over

Appendix II

Fw: New House Barry

From: S Burness <[REDACTED]>

To: sburnes:[REDACTED]

Date: Monday, 8 February 2021, 15:16 GMT

From: Mark Pirrie <mark.pirrie@millardconsulting.co.uk>
Date: 8 February 2021 at 08:20:55 GMT
To: S Burness <[REDACTED]>
Cc: Stewart Burness <[REDACTED]>
Subject: RE: New House Barry

Morning Susan,

Thank you for sending over the photographs of the wall with trees growing out at the base of the wall.

These trees need to be completely removed and roots removed as best you can achieve. The wall will required to be underpinned locally and repaired as necessary to maintain integrity of the retaining wall.

Regards

Mark Pirrie

Director

Millard Consulting
Seabraes

18 Greenmarket

Dundee

DD1 4QB

t 01382 227 380

m [REDACTED]

e mark.pirrie@millardconsulting.co.uk

Appendix III

Table 1: Types of Open Space

Type	Description
Public parks and gardens	Areas of land normally enclosed, designed, constructed, managed and maintained as a public park or garden. These may be owned or managed by community groups.
Private gardens or grounds	Areas of land normally enclosed and associated with a house or institution and reserved for private use.
Amenity greenspace	Landscaped areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons and used for a variety of informal or social activities such as sunbathing, picnics or kickabouts.
Playspace for children and teenagers	Areas providing safe and accessible opportunities for children's play, usually linked to housing areas.
Sports areas	Large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports (including playing fields, golf courses, tennis courts and bowling greens) and which are generally bookable.
Green corridors	Routes including canals, river corridors and old railway lines, linking different areas within a town or city as part of a designated and managed network and used for walking, cycling or horse riding, or linking towns and cities to their surrounding countryside or country parks. These may link green spaces together.

Natural/semi-natural greenspaces	Areas of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland and wetland areas.
Allotments and community growing spaces	Areas of land for growing fruit, vegetables and other plants, either in individual allotments or as a community activity.
Civic space	Squares, streets and waterfront promenades, predominantly of hard landscaping that provide a focus for pedestrian activity and can make connections for people and for wildlife.
Burial grounds	Includes churchyards and cemeteries.
Other functional greenspace	May be one or more types as required by local circumstances or priorities.

Table from Planning Advice Note 65

Comments for Planning Application 21/00279/FULL

Application Summary

Application Number: 21/00279/FULL

Address: Rest Garden Main Street Barry

Proposal: Erection of a dwellinghouse

Case Officer: James Wright

Customer Details

Name: Miss Susan Killean

Address: The Church of Scotland Law Department 121 George Street Edinburgh EH2 4YN

Comment Details

Commenter Type: Miscellaneous

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I act as Solicitor to the Church of Scotland General Trustees as current owners of the ground on which the former Church of Scotland West Hall once stood in Main Street, Barry and also for the Barry Church of Scotland Congregation the previous owners and current occupiers of the ground.

It has been brought to my attention that as part of the planning application 21/00279/FUL, a member of the public appears to consider that there is a right of way over the property and/or that the public have Access Rights over it. The situation is that when the former Hall was demolished, the Congregation arranged for the ground to be laid out as a garden and permitted the local community to take access to it. The Congregation could have, at any time, closed off the area and prevented access to it. Where access is given with permission there is no question of the creation of rights under the Prescription and Limitation (Scotland) Act 1973 or the creation of a Right of Way. Any use over the years has been with permission.

I should be obliged if you would note the above and that the current application for planning appears to be sympathetic to the area and a good use of the ground.

**Tree Survey and Arboricultural Impact Assessment
For New House Plot, Mill Road, Barry, Carnoustie, Angus**

Friday 18th June 2021



Author Emma O'Shea BSc, PG Dip Env Mgmt.

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Fairway
Golf Course Road
Pitlochry
PH16 5QU
Tel: [REDACTED]
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Web: www.tayecology.co.uk

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PART 1 - EXECUTIVE SUMMARY

1.1 Proposal

It is proposed to construct a dwelling house at the site on Mill Road, Barry, Angus. A tree survey written in accordance with British Standard Institute publication BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' is required.

1.2 Tree and Shrub Survey

A tree survey was carried out by the surveyor on 14th June 2021. The trees were recorded as T901-T909, a total of nine trees were surveyed. All trees surveyed were assigned to the category A, B, C or U classification.

1.3 Arboricultural Impact Assessment

It is proposed to fell the nine trees surveyed on the site. The trees are all Category U which would not be realistically retained, and Category C trees which under normal circumstances would not be required to be retained in a development context, unless in a location where they do not represent a significant constraint on the proposal. The trees include seven non-native conifers three of which have been previously shaped/cut, three of these trees have roots impacting the boundary wall, and all are of limited ecological value. Four of the conifers are in the development footprint and would cause severe constraints if retained. There are two deciduous trees both of which have significant amounts of deadwood in the main stems and whose roots are detrimentally impacting the stone structures at the site. As it is not proposed to retain any tree there are no RPAs which will be impacted by the development. It is anticipated that the loss of trees at the site can be compensated for by planting native trees, shrubs, and plants in the garden of the property which will enhance the biodiversity of the site and improve its ecological value.

1.4 Tree Protection

Tree protection is not required as it is not proposed to retain any trees. It is recommended that the area of proposed garden ground is protected during construction to avoid compaction of the ground. Recommendations for protection barriers and ground protection are provided.

1.5 Conclusion

The impact of the proposed development can be satisfactorily mitigated against to ensure that there is no long-term detrimental impact at the site. The arboricultural impact is high in the short-term, reducing to low in the medium to long-term with new planting appropriate for the site. Planting native trees, shrubs and plants will enhance the biodiversity of the site and improve its ecological value.

PART 2 - GENERAL INFORMATION

2.1 Brief From Client

A tree survey is required written in accordance with British Standard Institute publication BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations'.

2.2 Proposed Works

It is proposed to construct a dwelling house on the site at Mill Road, Barry. The site is at an altitude of 10m above sea level at grid reference NO 533 343.

2.3 Documents Referred To

The British Standard Institute publication BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' is referred to throughout this report. This is a nationally recognised standard typically used by Local Planning Authorities (LPAs) to assess planning applications. It is frequently referred to in planning conditions to enforce protection or control of works that may be harmful to trees both on and off the site.

2.4 Documents Received

List of documents received from client or a representative of the client:

21-05-02 Rev A Design Proposals

21-05-03 Site Analysis

21-05-04 Site Plan

2.5 Limitations

2.5.1 This report was prepared for use by our client in accordance with the terms of the contract and for planning purposes only. Information provided by third parties used in the preparation of this report is assumed to be correct.

2.5.2 All trees have been inspected from ground level only using established visual assessment methodology. This is primarily a survey to assess the general health, condition, value, and life expectancy of existing trees as part of the planning and design process. This report is not a detailed document on tree safety.

2.5.3 The morphology of tree roots is influenced by past and present site conditions and tree management, eg. soil type, drainage, and local topography. The RPAs of trees may be exaggerated. RPAs are indicated on the plans as being centred around each stem, note that the actual protection area is often skewed because localised features (such as local topography etc.) make rooting conditions unfavourable on one or more sides of the tree.

2.5.4 Trees are dynamic living organisms, whose health and condition can be subject to rapid change, depending on a number, of external and internal factors. The conclusions and recommendations contained in this report relate to the trees at the time of inspection. The findings and recommendations are valid for twelve months and it is strongly recommended that trees are inspected at regular intervals and after extreme weather events for reasons of safety.

2.5.5 Whilst every effort has been made to detect defects within the trees inspected, no guarantee is given as to the absolute safety or otherwise of any individual tree. Extreme climatic conditions can cause damage to apparently healthy trees.

2.5.6 The findings and recommendations contained within this report are based on current site conditions. The construction of roads, buildings, service wayleaves, removal of shelter, and alterations to established soil moisture conditions can all have a detrimental impact on the health and stability of retained trees. Accordingly, a re-inspection of retained trees is recommended on completion of any development operations.

2.5.7 This report has been prepared for the sole use of the client and their appointed agents. Any third party referring to this report or relying on information contained within it does so entirely at their own risk.

2.6 Personnel

Emma has worked in the environmental sector for seventeen years, including twelve years predominantly focused on woodland management, during which time she has gained a wealth of experience and expertise. Emma has been qualified in arboriculture and ground level tree operations for fifteen years, has carried out tree surveys for nine years, and holds the Lanta Tree Survey and Inspection Award. During the last seven years she has worked as an ecological and arboricultural consultant for Tay Ecology with lead responsibility for development projects. She graduated with a BSc from University of Edinburgh, has a Postgraduate Diploma in Environmental Management and is a member of the Arboricultural Association and Institute of Environmental Management and Assessment.

PART 3 – TREE SURVEY

3.1 METHODOLOGY

3.1.1 Trees on and adjacent to the proposed development site where these trees may be impacted by the proposed work have been recorded. Nine trees are numbered T901-T909, tree species include Lawson cypress, ash and elder.

All trees surveyed were assigned to the category A, B, C or U classification.

3.1.2 Data was collected in accordance with the requirements of British Standard 5837:2012. All observations were from ground level, with the aid of binoculars, without detailed or invasive investigations. Measurements were taken using a tape measure, clinometer, and laser measure. Where this was not possible or reasonably practical, measurements have been estimated by eye.

3.1.3 The trees were surveyed and assessed impartially and irrespective of the proposed development. Management recommendations should be implemented regardless of any proposed development for reasons of sound arboricultural management or safety.

3.1.4 BS 5837:2012 requires retention of better quality (category A and B trees) where possible. Planning permission overrides a Tree Preservation Order and Conservation Area. Furthermore, trees are a material consideration in the UK planning system irrespective of their legal status. It is therefore not considered necessary to highlight or give additional merit to trees that have legal protection.

3.1.5 All category A, high & B moderate quality and value trees will, where possible, be retained on development sites, and should influence and inform the design, site layout, and in some cases the specific construction methods to be used. The root protection areas of these trees will generally form a construction exclusion zone, although under certain circumstances it may be possible to build within these areas providing that appropriate, specifications have been agreed between the local planning authority, the consulting arboriculturist and the developer/client.

3.1.6 As regards category C trees; under normal circumstances these would not normally be required to be retained in a development context, unless in a location that they do not represent a significant constraint on the proposal. See relevant note at foot of Cascade diagram BS 5837:2012.

3.1.7 All category U trees should be removed for reasons of sound arboricultural practice or health & safety, irrespective of any development proposals.

3.1.8 Trees may be recorded as group or woodland where:

- i) The canopies touch.
- ii) The trees have more group value than individual merit.
- iii) They are part of a formal landscape feature like an avenue.
- iv) It is impractical to record them individually.

3.1.9 Where trees within groups or woodlands etc. are recorded together, it may be necessary to record individual trees where it is necessary to distinguish them from others, this may be required initially, eg. if a tree is in category U, or at a subsequent stage as the design process evolves.

3.2 ANALYSIS

3.2.1 Site Description

It is proposed to construct a dwelling house on the site at Mill Road, Barry. The site is at an altitude of 10m above sea level at grid reference NO 533343. The area is dominated by an overgrown garden, with a small number of trees and shrubs around the perimeter. Trees range in age from young to mature and comprise two deciduous and seven coniferous species.

3.2.2 Species

Tree species include: *Abies sp.*, Lawson cypress *Chamaecyparis Lawsoniana*, Ash *Fraxinus excelsior*, Elder *Sambucus nigra*.

3.2.3 Categories

The trees recorded are category C 78% and U 22%. The distribution of categories of individual trees is as follows:

BS 5837 Category	Number of Trees	% Trees
A	0	0
B	0	0
C	7	78
U	2	22
Total	9	100

3.2.4 Life stage

34% mature, 22% over-mature and 44% early-mature trees recorded.

The life stages recorded for individual trees are summarised as follows:

Life Stage	Number of trees	% of Trees
Young	0	0
Semi-mature	0	0
Early-mature	4	44
Mature	3	34
Over-mature	2	22

3.3 Tree Survey Schedule

Ref.	Species	Hgt. (m)	DBH (mm)	Branch spread (m)				Clr (m)	Life stage	General observations	Condition & Vigour	ERC	Cat.	RPA (m)	Proposed Work
				N	E	S	W								
Trees															
901	L.Cypress	3	6 x <100	0.5	0.5	0.5	0.5	1.5	EM	Multi-stemmed tree with 6 stems less than 100mm – 100;70;60;30;30;30. Previously cut stems at base. At SW corner of site adjacent to roadside and site walls along 2 boundaries, limited growth potential, roots in wall, damaging structural integrity of wall. Proposed removal of tree and roots to limit structural damage.	Fair Moderate	10+	C2	1.47	Fell
902	L.Cypress	4	180;140; 140;110	1.5	1.5	1.5	1.5	1.5	M	Multi-stemmed, previously cut stems at base and shaped for garden.	Fair Moderate	10+	C2	2.72	Fell
903	L.Cypress	4	180;150; 140	1.5	1.5	1.5	1.5	1.5	M	Multi-stemmed, previously cut stems at base and shaped for garden.	Fair Moderate	10+	C2	2.46	Fell
904	Abies sp.	7	230	0.5	0.5	0.5	0.5	0.2	EM	Adjacent to stone wall on SW boundary, limited growth potential, roots in wall, damaging structural integrity of wall. Propose removal of tree and roots to limit structural damage.	Fair Moderate	10+	C2	2.76	Fell
905	Ash	9	280;220; 160	3	3	3	3	1	OM	Bifurcated stem growing from significantly larger base indicates previous cutting of tree. West limb splits into 2 stems. Deadwood visible in main stems on west and east sides. Adjacent to stone wall on NW boundary, limited growth potential, roots in wall, causing substantial damage to wall. Propose removal of tree and roots to limit damage.	Poor Low	10-	U	3.26	Fell
906	Elder	4	230	0	2	2	1	1	OM	Leaning substantially to east at corner of small building. Deadwood in main stem and decay fungi <i>Auricularia auricula-judae</i> on stem. Roots causing structural damage to foundations of building. Propose removal of tree and roots to limit damage.	Poor Low	10-	U	2.76	Fell
907	L.Cypress	3	180	0.5	0.5	0.5	0.5	0.2	EM	Shaped for garden.	Fair Moderate	10+	C2	2.16	Fell
908	L.Cypress	3	180	0.5	0.5	0.5	0.5	0.2	EM	Shaped for garden.	Fair Moderate	10+	C2	2.16	Fell
909	L.Cypress	6	310;320	2	2	2	2	0.5	M	Substantial tree located above the NE boundary wall, branches overhanging existing small building. Roots causing structural damage to wall, and it is proposed this tree is felled to limit damage.	Fair Moderate	10+	C2	3.84	Fell

KEY

Ref: Reference number assigned to that item with a code to help identification such as T = tree

Hgt: Height of the tree in metres rounded up to the nearest half metre.

DBH: 'Diameter at Breast Height' – the stem diameter measured in millimetres at 1.5m above ground level, to the nearest 10mm. Where the ground around the base of the tree is not level this is taken 1.5m above the upper side of the slope.

Crown Spread: The crown spread is given to four cardinal points, rounded up to the nearest half metre.

Clr: 'Crown clearance' is the height of the lowest branch above ground level, with the general direction it is growing to a cardinal point.

Life Stage: Recorded with codes as follows, and relative to the species of the tree: Y – Young; EM - Early-mature; M – Mature; OM - Over-mature; D – Dead.

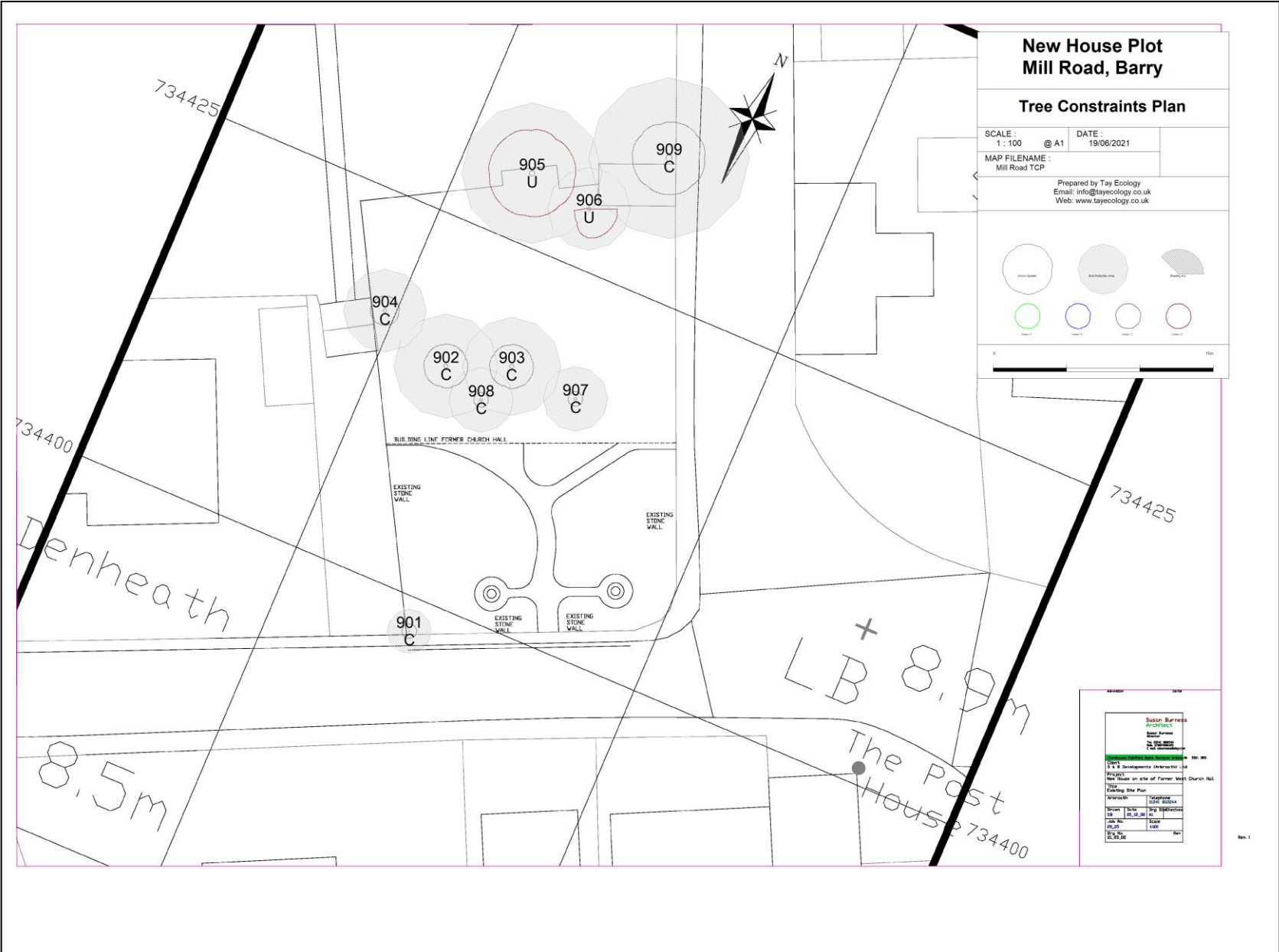
General observations: includes notes on structural defects, physiological problems, special features, decay and management recommendations. Please note that management recommendations do not constitute a specification for any required works.

Condition: Good = Healthy tree with no major defects, considerable life expectancy, with good shape or form; Fair = Healthy tree with easily remedied defects, shorter life expectancy, with reasonable shape or form; Poor = Tree with significant structural defects and/or decay, low vigour, under stress, limited life expectancy and with inferior shape and form; Dead = Dead, dying, and dangerous trees, very low vigour, severely limited life expectancy, serious structural defects and/or decay.

ERC: 'Estimated remaining contribution', recorded in a range of years is the amount of time the tree can realistically be retained for.
<10 - Unsuitable for retention; 10-20 - Can be retained in the short term; 20-40 - Will continue to offer benefits for the foreseeable future; 40+ - Good longevity potential

Cat.: 'Category grading', a full explanation of the categories is given in an excerpt from BS 5837:2012 in the cascade chart, appendix 2.

RPA: 'Root protection area', appears on the survey plan and is calculated by multiplying the stem diameter using one of three methods specified in BS 5837:2012 depending on the number of stems the tree has. This should be considered an indication only as various factors may influence the size and shape of the RPA, such as past and present site conditions, and ground constraints such as roads, underground services, soil type, drainage, and topography.



**New House Plot
Mill Road, Barry**

Tree Constraints Plan

SCALE : 1 : 100 @ A1 DATE : 19/06/2021

MAP FILENAME : Mill Road TCP

Prepared by Tay Ecology
Email: info@tayeology.co.uk
Web: www.tayeology.co.uk

Green	Red	Yellow
Purple	Pink	Red



Susan Barnes		ARCHITECT
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www.susanbarnes.co.uk		
S & B Developments (Barry) Ltd		
New House on site of Former Mill Church Hut		
Tree Constraints Plan		
Author	19/06/2021	10:00
Drawn	19/06/2021	10:00
Check	19/06/2021	10:00
Scale	1:100	
Plot No.	734400	

3.4 Tree Constraints Plan

A tree constraints plan has been produced for the site. The trees were recorded as T901-T909, a total of nine trees were surveyed across the site.

The morphology of tree roots is influenced by past and present site conditions and tree management, eg. soil type, drainage, and local topography. The RPAs of trees may be exaggerated. At this site T905, 906 and 909 RPAs are limited by the change in height.

3.5 Site Photographs Trees

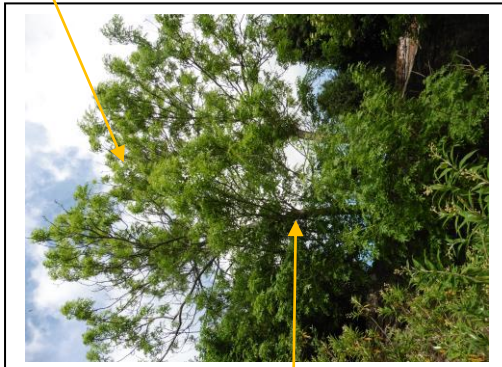
T901



T903 and 902



T905



T906 and 909



Deadwood in stems



PART 4 – ARBORICULTURAL IMPACT ASSESSMENT

4.1 LOSS OF TREES

It is proposed to fell the nine trees surveyed on the site. The trees are all Category U which would not be realistically retained, and Category C trees which under normal circumstances would not be required to be retained in a development context, unless in a location where they do not represent a significant constraint on the proposal. The trees include seven non-native conifers three of which have been previously shaped/cut, three of these trees have roots impacting the boundary wall, and all are of limited ecological value. Four of the conifers are in the development footprint and would cause severe constraints if retained. There are two deciduous trees both of which have significant amounts of deadwood in the main stems and whose roots are detrimentally impacting the stone structures at the site. It is anticipated that the loss of trees at the site can be compensated for by planting native trees, shrubs, and plants in the garden of the property which will enhance the biodiversity of the site and improve its ecological value.

4.2 INCURSION INTO ROOT PROTECTION AREAS

As it is not proposed to retain any tree there are no RPAs which will be impacted by the development.

4.2.2 Protective Fencing

Tree protection is not required as it is not proposed to retain any trees. It is recommended that the area of proposed garden ground is protected during construction to avoid compaction of the ground. The fence creates a physical barrier between the construction area and the Construction Exclusion Zone (CEZ). The provisional Ground Protection Plan gives an indicative positioning for the placement of protective fencing and construction exclusion zones. A specification for protective fencing is given in Appendix 3.

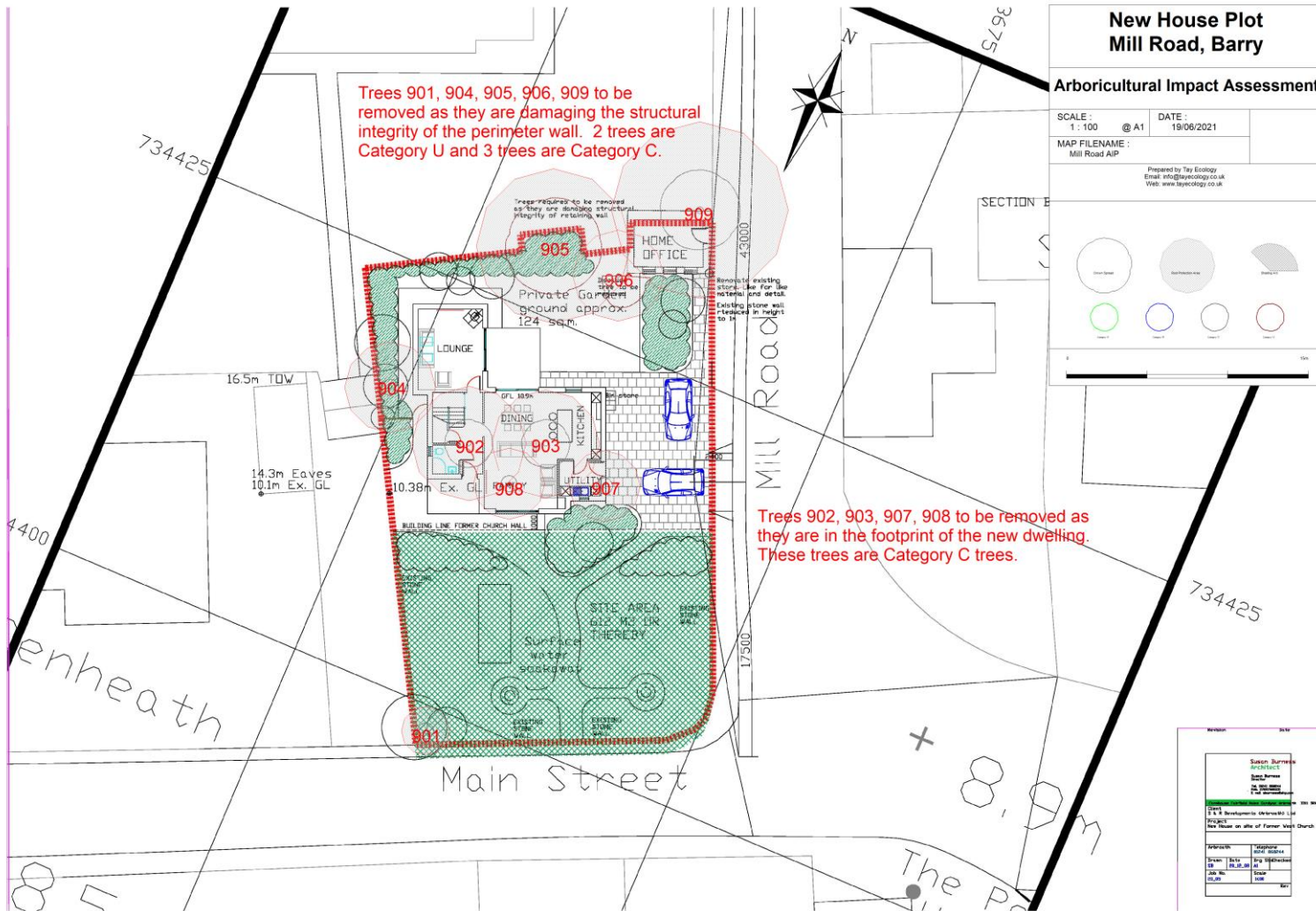
4.3 ABOVE GROUND CONSTRAINTS

4.3.1 Landscaping

Planting of native trees, shrubs and plants will be planned in the garden to enhance the existing habitat.

4.4 CONCLUSIONS

The impact of the proposed development can be satisfactorily mitigated against to ensure that there is no long-term detrimental impact at the site. The arboricultural impact is high in the short-term, reducing to low in the medium to longer-term with new planting appropriate for the site. Planting native trees, shrubs and plants will enhance the biodiversity of the site and improve its ecological value.



Trees 901, 904, 905, 906, 909 to be removed as they are damaging the structural integrity of the perimeter wall. 2 trees are Category U and 3 trees are Category C.

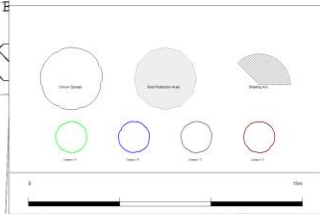
Trees 902, 903, 907, 908 to be removed as they are in the footprint of the new dwelling. These trees are Category C trees.

New House Plot Mill Road, Barry

Arboricultural Impact Assessment

SCALE: 1:100 @ A1 DATE: 19/06/2021
 MAP FILENAME: Mill Road AIP

Prepared by The Ecology
 Email: info@theecology.co.uk
 Web: www.theecology.co.uk



NO	Tree	Category	Notes
1	901	U	Remove
2	902	C	Remove
3	903	C	Remove
4	904	U	Remove
5	905	U	Remove
6	906	U	Remove
7	907	C	Remove
8	908	C	Remove
9	909	U	Remove

PART 5 – GROUND PROTECTION PLAN

5.1 GENERAL

5.1.1 The client and agent shall ensure that:

- the site manager and all other personnel are provided with this document.
- all planning conditions relating to underground works, services, trees, and landscaping are cleared before development commences.
- all requirements of this Ground Protection Plan are adhered to.
- the site manager is updated of any approved changes or variations to this document.

5.1.2 The client and site manager shall ensure that:

- a copy of this document with the ground protection plan is easily accessible for site personnel to refer to before and during the time construction activity is taking place.
- all personnel working on the site are made aware of the ground protection plan and arboricultural method statements covering any activities they will undertake. This duty includes delegating the task of briefing personnel in the absence of the site manager.
- The ground protection measures are left in place until the construction phase of development is completed.
- site personnel are updated of any approved changes to approved ground protection measures.

5.1.3 Procedures for incidents

If any breach of the approved ground protection measures occurs:

- The Planning Officer and Tay Ecology are informed.
- The site manager must be informed immediately.
- Swift action must be taken to halt the breach and prevent any further breach.
- Damage mitigation measures appropriate to the scale of incident, deployed where required.

5.1.4 Prohibited Activities

The following must not be carried out under any circumstances:

- Cutting down, uprooting, damaging or otherwise destroying any retained vegetation.
- Lighting a fire within 10 metres of the canopy of any retained vegetation.
- Equipment, signage, fencing, tree protection barriers, materials, components, vehicles, or structures shall not be attached to or supported by any retained vegetation.
- Mixing cement, chemical toilets and other use or storage of anything that would be harmful to vegetation shall not take place within, or close to any vegetation. The distance away from the vegetation must be sufficient, and site slope must be such that contamination of soil would not occur if there were spillage, seepage, or displacement.
- No plant or vehicle with a hydraulic arm such as a mini digger shall be operated within striking distance of any retained vegetation unless otherwise specified.

5.1.5 No alterations or variations shall be made to the approved ground protection measures without written approval from the LPA.

5.1.6 Timing and order of operations

The development must be carried out in the following order unless otherwise agreed in writing with the LPA. Each step must be completed before moving onto the next:

- i. Tree felling
- ii. Installation of ground protection barriers and temporary ground protection.
- iii. Construction.
- iv. Removal of the remaining ground protection and barriers.

5.2 PROTECTIVE BARRIERS AND GROUND PROTECTION

5.2.1 Protective barriers can be used to protect the ground in the garden area. The aim of any barrier is to exclude any construction activity which may damage retained vegetation.

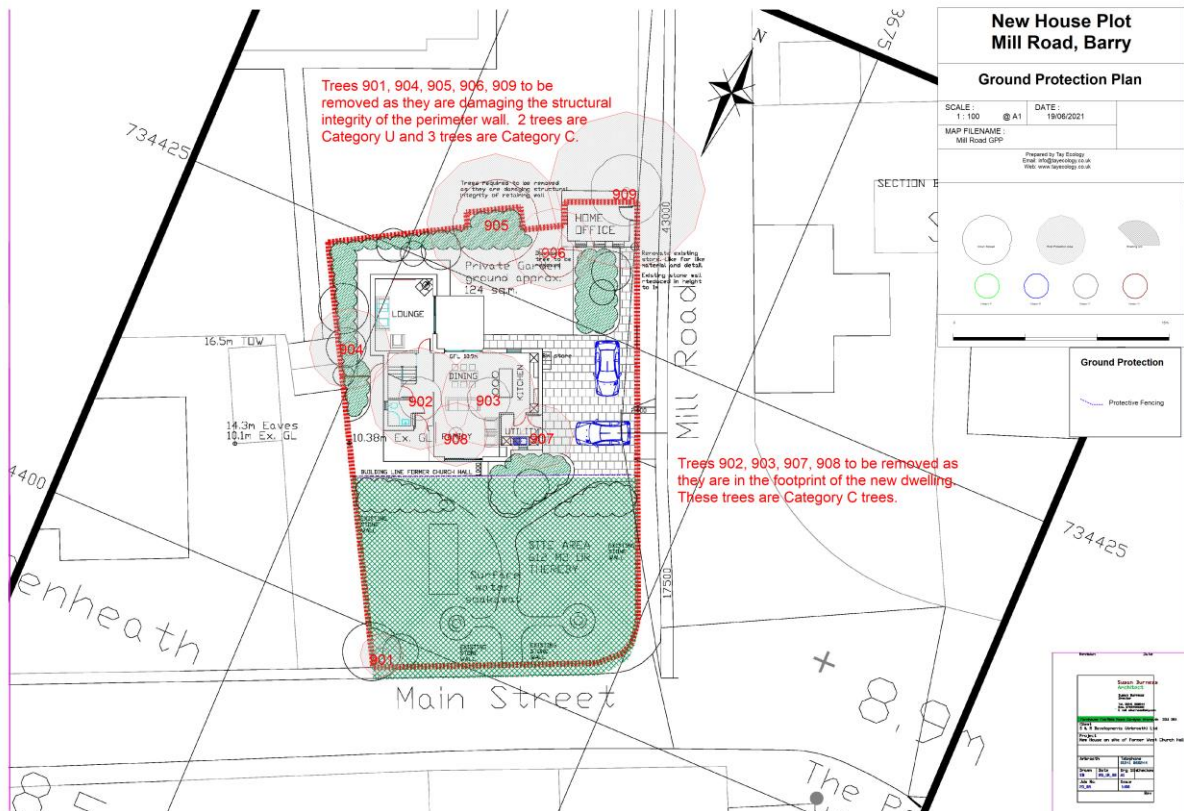
5.2.2 Any barriers shall be installed and removed in accordance with the timing of operations above and laid out in accordance with the Ground Protection Plan. In the event of any panel or support becoming damaged, this must be immediately reinforced by adding panels with the designs below as appropriate.

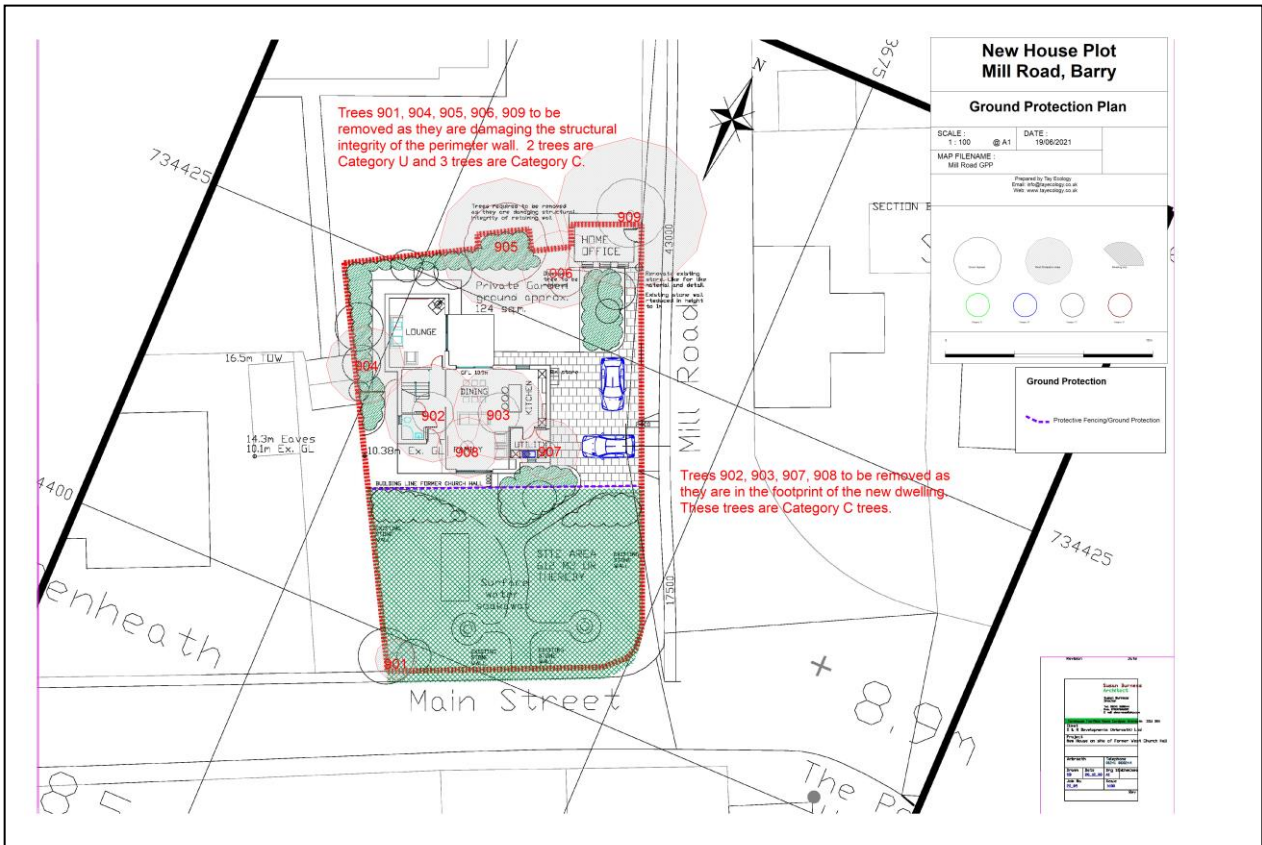
5.2.3 Tree protection barriers

The default specification is a vertical and horizontal scaffold framework, braced to resist impacts, Appendix 3. The vertical tubes are spaced at a maximum interval of 3m, and these are driven securely into the ground. Welded mesh panels are securely attached to the frame. During installation it is important to consider the position of below ground services and structural roots, which must not be damaged. Where these constraints prevent the use of this specification, an alternative specification is given.

5.2.4 Alternative tree protection barrier design

2 metres high welded mesh panels standing in rubber or concrete feet joined using a minimum of two anti-tamper couplers installed so they can only be removed from inside the protected area. The fence couplers should be at spaced least 1m apart, but uniformly across the whole barrier. These panels must be supported within the protected area with struts attached to a base plate





PART 6 – REFERENCES

- British Standard 5837:2012 ‘Trees in relation to design, demolition and construction - Recommendations’
- British Standard 3998:2010 ‘Tree work – Recommendations’

PART 7 – APPENDICES

- Appendix 1 – Terms and Definitions
- Appendix 2 – Tree Category Codes
- Appendix 3 – Protective Fencing Specifications

APPENDIX 1 TERMS AND DEFINITIONS

1.0 Arboricultural Method Statement

Guidelines for specified working operations near trees to avoid any harmful impact as defined within BS 5837:2012, may cover works from tree work to operating cranes, installing foundations or services and guidelines for engineering performance to function as a tree protection measure.

1.1 Ground Protection

In this context the term refers to a method for preventing the ground from being disturbed, usually within the Root Protection Areas of retained trees. Other uses include protection areas to be planted. The way ground protection should be designed to perform is typically described within an Arboricultural Method Statement.

1.2 Root Protection Area (RPA)

A minimum recommended area for tree protection in 'BS 5837:2012 Trees in Relation to Construction'. In these areas works should be avoided where possible. Where work in these areas cannot be avoided, it should be carried out in accordance with a Tree Protection Plan and / or Arboricultural Method Statement.

1.3 Tree Constraints Plan

As defined within BS 5837:2012. This plan shows above and below ground constraints that may impact on a planning proposal such as the tree branch spread and Root Protection Area.

1.4 Tree Preservation Order (TPO)

A type of land charge which specifies certain trees for protection under the Town and Country Planning Act (1990) that makes it necessary to make an application to the LPA to work on them (with notable exceptions) and a criminal offence to otherwise damage or destroy them.

1.5 Conservation Area

Normal TPO procedures apply, if a tree is not covered by a TPO, written notice to the LPA detailing any proposed work must be given at least 6 weeks before work starts. Notice of work is not required where the tree has a diameter of less than 75mm, measured 1.5m above the ground, or 100mm diameter if thinning to enable the growth of other trees.

APPENDIX 2 TREE CATEGORY CODES

Cascade chart for tree quality assessment from BS 5837:2012

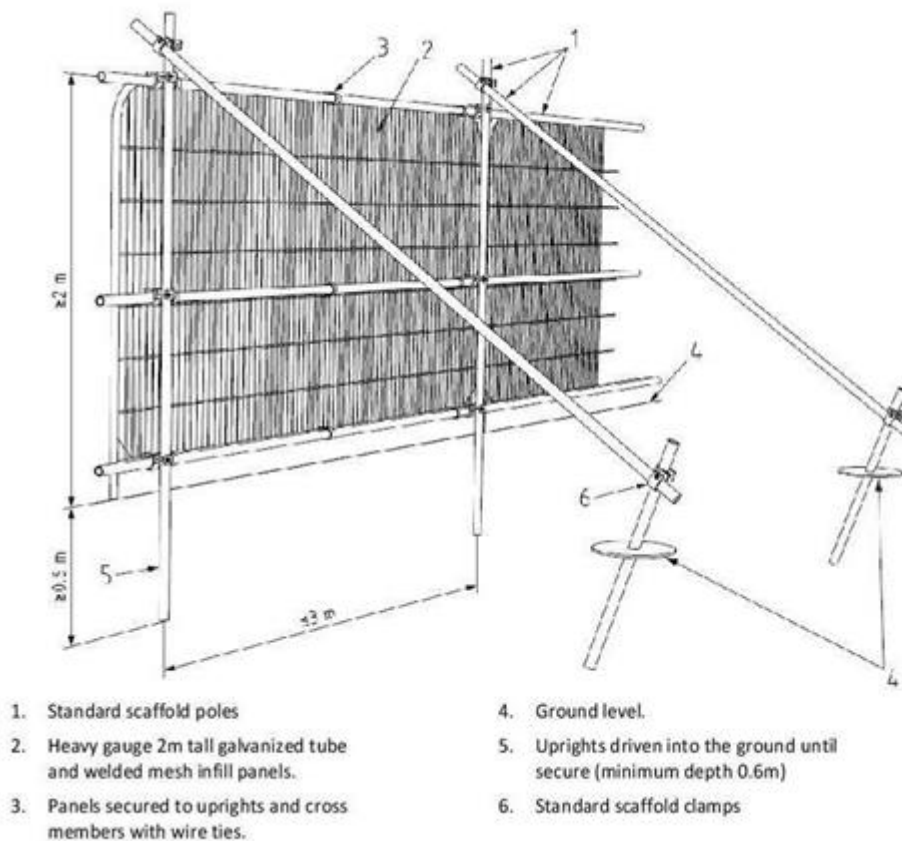
Category and definition	Criteria (including subcategories where appropriate)			Identification on plan
Trees unsuitable for retention				
Category U Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years.	<p>Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (eg. Where, for whatever reason, including the loss of companion shelter cannot be mitigated by pruning)</p> <p>Trees that are dead or are showing signs of significant, immediate and irreversible overall decline.</p> <p>Trees infected with pathogens of significance to tree health and/or safety of other trees nearby, or very low-quality trees suppressing adjacent trees of better quality. <i>NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve.</i></p>			Dark red
Trees to be considered for retention				
	1 Mainly arboricultural qualities	2 Mainly landscape qualities	3 Mainly cultural values, including conservation	
Category A Trees of high quality with an estimated remaining life expectancy of at least 40 years.	Trees that are particularly good examples of their species, especially if rare or unusual; or those that are essential components of groups or formal or semi-formal arboricultural features (eg. The dominant and/or principal trees within in an avenue).	Trees groups or woodlands of particular visual importance as arboricultural and/or landscape features.	Trees, groups or woodlands of significant conservation, historical, commemorative or other value (eg. Veteran trees or wood-pasture).	Light green
Category B Trees of moderate quality with an estimated remaining life expectancy of at least 20 years.	Trees that might be included in category A but are downgraded because of impaired condition (eg. Presence of significant though remediable defects, including unsympathetic past management and storm damage), such that they are unlikely to be suitable for retention for beyond 40 years; or trees lacking the special quality necessary to merit the category A designation.	Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality.	Trees with material conservation or other cultural value.	Mid blue
Category C Trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter of below 150mm.	Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories.	Trees present in groups or woodlands, but without this conferring on them significantly greater collective landscape value; and/or trees offering low or only temporary/transient landscape benefits.	Trees with no material conservation or other cultural value.	Grey
<i>NOTE: Whilst 'C' category trees will usually not be retained where they would impose a significant constraint on development, young trees with a stem diameter of less than 150 mm should be considered for relocation.</i>				

APPENDIX 3 PROTECTIVE FENCING SPECIFICATION

5.2.3 The default specification is a vertical and horizontal scaffold framework, braced to resist impacts, as per figure 1 below. The vertical tubes are spaced at a maximum interval of 3m and these are driven securely into the ground. Welded mesh panels are securely attached to the frame. During installation it is important to consider the position of below ground services and structural roots, which must not be damaged. Where these constraints prevent the use of this specification, an alternative specification is given below.

Figure 1 is taken from BS5837:2012 'Trees in Relation to Design, Demolition & Construction – Recommendations' and illustrates the systems to be employed for ensuring an adequate Construction Exclusion Zone about retained trees. Refer to BS5837:2012 for further details.

Figure 1 – default tree protection barrier specification



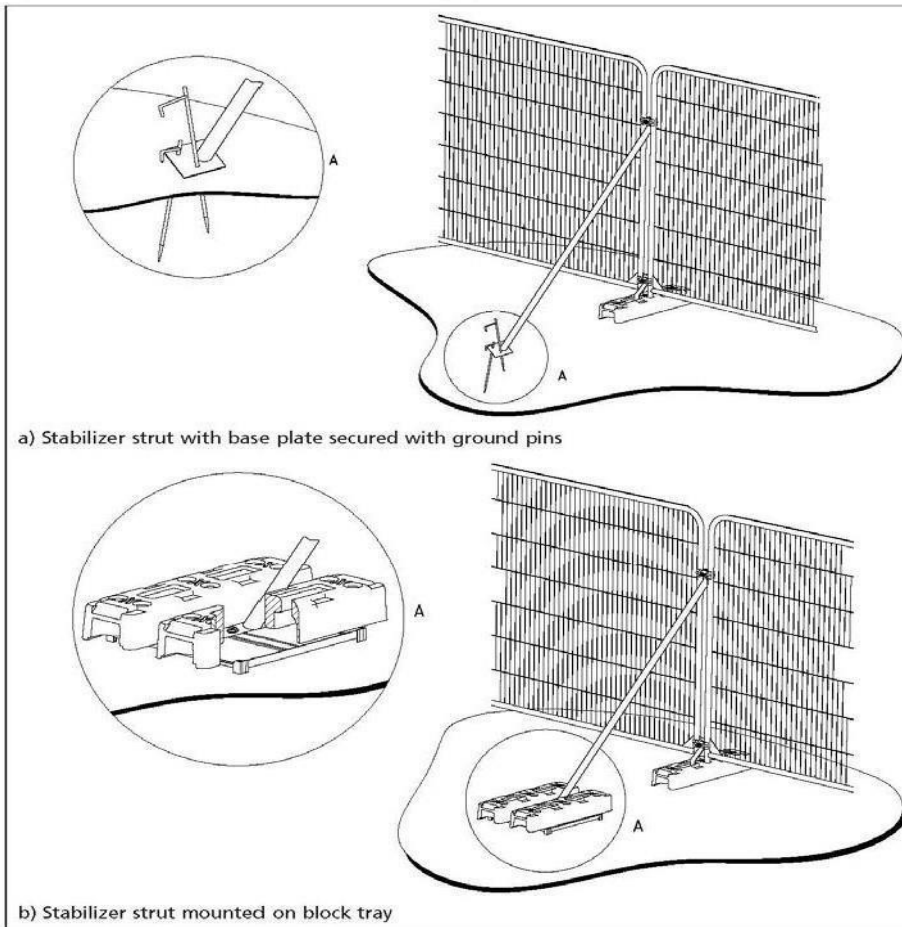
5.2.4 Alternative tree protection barrier design

2 metres high welded mesh panels standing in rubber or concrete feet joined using a minimum of two anti-tamper couplers installed so they can only be removed from inside the protected area. The fence couplers should be spaced at least 1m apart, but uniformly across the whole barrier. These panels must be supported within the protected area with struts attached to a base plate secured by ground pins as per figure 2a.

Where the fencing is installed above retained hard surfacing and/or it is otherwise not feasible to use ground pins (e.g. due to underlying services or structural roots), the struts can be mounted on a block tray as per figure 2b.

Figure 2 is taken from BS5837:2012 Trees in Relation to Design, Demolition & Construction – Recommendations and illustrates the systems to be employed for ensuring an adequate Construction Exclusion Zone about retained trees. Refer to BS5837:2012 for further details.

Figure 2 – above ground stabilising systems



**Preliminary Ground Level Bat Roost Assessment,
Bird and Protected Species Survey**

For Trees at New House Plot

At Mill Road, Barry, Carnoustie, Angus

Thursday 17th June 2021



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EXECUTIVE SUMMARY

A preliminary survey to assess the potential likelihood of bat roosting features within the trees at the New House plot at Mill Road was carried out. A day-time ground level roost potential assessment was carried out. The tree survey demonstrated a low or negligible potential for the presence of bat roosting features for the trees at the site. Bats are a protected species, and it is an offence to intentionally, or recklessly, disturb a bat, in a shelter or resting place; or to damage or destroy a breeding or resting site. All bats and their roosts are legally protected because bats return to the same places every year, a bat roost is protected even if there are no bats there. No further surveys of trees with low or negligible potential bat roost features are required. There is potential to enhance bat roosting potential by installing bat boxes at the site on south-easterly through to south-westerly aspects. Retaining and planting of bat friendly trees, shrubs, and plants as part of works will enhance the habitat and as favourable habitat will remain in the wider local area it is not anticipated that there will be any long-term detrimental impact to any foraging bats.

There was evidence of common birds nesting in the trees and shrubs, including blackbirds and robins. All wild birds and their nest, eggs and dependent young are legally protected, and it is an offence to disturb a wild bird when it is nesting. It is recommended that any works which may impact vegetation are planned to take place outside of the nesting season where possible. For works commencing during the breeding bird season, it is recommended that prior to any ground clearance or vegetation/tree felling works that a breeding bird survey is carried out prior to any works taking place. Any active nest sites must be suitably protected until the chicks have fledged. There is potential to provide alternative nesting opportunities for birds by installing nesting boxes at the site. There was no evidence of any other protected species at the site.

1. INTRODUCTION

1.1 Site location

The house plot is located on Mill Road, Barry, at the junction with Main Street at grid reference NO 533 343, at an altitude of 10 metres above sea level. *Appendix 1 Location Plan*

1.2 Site description

The site is an area of garden, with a selection of trees and shrubs around the perimeter of the site. There is a stone wall along the north-eastern perimeter of the site.

1.3 Proposed works

It is proposed to construct a new property at the site. *Appendix 2 Proposed Site Plan*

2. SURVEY AND SITE ASSESSMENT

2.1 Objectives

The survey aims to make an appraisal of the potential bat roosting features within trees on the site. The survey specifically looked for the presence of potential bat roosting features within these trees with a ground level roost assessment. The presence of breeding birds and any other protected species was assessed.

2.2 Methods

2.2.1 Pre-survey data search

Web-based sources of information were examined, principally the National Biodiversity Network (NBN) Gateway (<http://data.nbn.org.uk/>) where a radius of 5km from the centre of the proposed development was searched to provide suitable coverage of the area. Nature designation classifications were obtained from NatureScot, formally Scottish Natural Heritage, Site Link (<https://sitelink.nature.scot/home>). Other websites searched include Bat Conservation Trust (BCT) (<http://www.bats.org.uk/>). Positive records for species present in the survey area can be used to inform the assessment of biodiversity on the site but the lack of records cannot be taken to imply that bat species are absent.

2.2.2 Survey methodology

A site visit was carried out after receiving information from Susan Burgess, Director, Gardyne Homes Ltd. A walk over survey was carried out and an overall habitat assessment was made, breeding birds and protected species were surveyed for. A bat survey was carried out incorporating a preliminary ecological appraisal, and preliminary potential roosting feature assessment. The trees were surveyed from ground level following Good Practice Guidelines, 3rd Edition. Bat Conservation Trust (BCT), Collins, J (2016) and methods from British Standard 8596-2015 Surveying for bats in trees and woodland – guide (2015). Equipment included a powerful torch, ladders, binoculars, and an endoscope.

2.2.3 Survey area

The survey area covered all trees and shrubs on the site as identified in the tree survey.

2.2.4 Timings, types, and weather conditions of Field Surveys

14/06/2021 Tree roost assessment, breeding bird and protected species surveys - temperature 17 degrees Celsius; wind speed 5mph; cloud cover 50%; no precipitation; good visibility.

2.2.5 Limitations

Survey data is accurate on the dates that the surveys took place and is based upon observations of the site as it currently exists. Trees were surveyed from ground level, however, all identified potential roost features were accessible with the surveyor's equipment. Tree condition should be re-evaluated after extremes of weather that may affect the trees' health or stability. Any alteration to the site and the context in which these trees grow will make it necessary to re-assess tree condition. Trees are dynamic and complex organisms and are subject to change.

No soil, pathogen or tree samples were taken; no drilling or other decay detection devices were employed; an endoscope was used for examining accessible tree cavities. No detailed assessment of the rooting zone and below ground tree physiology was made. All observations were made from within areas of public access.

2.2.6 Personnel

Emma O'Shea, Ecological Consultant, Tay Ecology, Bat Licence Number 103292

Emma has worked in the environmental sector for seventeen years, during which time she has gained a wealth of experience and expertise. During the last seven years she has worked as an ecological consultant for Tay Ecology with lead responsibility for development projects requiring protected mammal species surveys and species licensing, she trained for her bat licence under Neil Middleton, Echoes Ecology on the Bat Skills Development Programme. Emma has a Postgraduate Diploma in Environmental Management from the Open University and is a member of the Institute of Environmental Impact and Assessment.

3. LEGISLATION AND POLICY GUIDANCE

Bats: All bats and their roosts are legally protected in Scotland by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) - "the Habitats Regulations". A bat roost is any structure or place which a bat or group of bats use for shelter or protection, because bats return to the same places every year, a bat roost is protected even if there are no bats there.

It is an offence to deliberately or recklessly: capture, injure or kill a wild bat; harass a wild bat or group of bats; disturb a wild bat in a roost (any structure or place it uses for shelter or protection); disturb a wild bat while it is rearing or otherwise caring for its young (this would be a 'maternity' roost); obstruct access to a bat roost or to otherwise deny the animal use of the roost; disturb such a wild bat in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of that species; disturb a wild bat in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or care for its young.

It is also an offence to damage or destroy a breeding site or resting place of such an animal (note: this does not need to be deliberate or reckless to constitute an offence); keep, transport, sell or exchange or offer for sale or exchange any wild bat or any part or derivative of one (if obtained after 10 June 1994).

4. BAT ECOLOGY

4.1 General Bat Ecology

In this part of Scotland there are 5 species of bat generally found: Common Pipistrelle *Pipistrellus pipistrellus*; Soprano Pipistrelle *Pipistrellus pygmaeus*; Brown Long-eared *Plecotus auritus*; Daubenton's *Myotis daubentonii*; and Natterer's *Myotis nattereri*. The species of pipistrelle use trees and man-made structures to roost and can be found in both a rural and urban setting. Brown long-eared bats may roost in trees or often in old buildings with large attics, preferring buildings associated with mature woodland in which they can forage. Daubenton's roost close to still or running bodies of water, either in trees or structures such as bridges. Natterer's bats have a similar habitat to brown long-eared bats but are less common.

Female bats roost together in a colony from May until the autumn. They usually have one baby in June which is reliant on its mother for 2 months and will remain in the roost whilst the mother feeds. In the autumn, the colony will move from their warm summer roost, often in buildings, to a cooler winter roost which may be in trees, unheated buildings with thick stone walls, caves, and similar places. In their winter roost they become torpid as the weather cools, and they hibernate. Male bats live in smaller groups or individually in cooler roosts such as steadings or tree holes and can be found in maternity colonies in the early autumn when mating takes place. Whilst bats are hibernating, they are particularly vulnerable to disturbance. Each time they wake it uses up their energy stores and with repeated disturbance the result can be their death.

4.2 Tree Roost Value and Importance

Bats use a range of different tree features throughout the year for roosting and rely on utilising a range of sites within an area. Bats move frequently between roosts as seasonal conditions vary. Assessing the importance of an area to bats initially considers the number of suitable features available to use as roost sites, as well as the proximity to foraging sites and the connectivity with the wider landscape. Bats use linear landscape features such as high hedges, water courses, railway cuttings and tree lined roads to commute between their favoured roosting and foraging habitats.

The size of available features is also an important consideration because bats are social animals that live in colonies. Bats may roost as individuals, in small groups or as a colony, depending on the availability of roost sites, local environmental factors and according to their physiological requirements. Bats are long lived animals with a habitual nature, which when combined with their social lifestyles means that they make regular use of the same roost sites year after year. It is therefore possible to assess the value of certain tree features based on their age and longevity with consideration to a potential history of use that could be measured in decades.

The desirability of suitable roosting opportunities within a local context is another important consideration, and whether the full range of different roost conditions required during the bats' life cycle are available to them. For example, to raise their young bats choose very warm roosts, often in dead trees that are in full sun for most of the day, but they also need cool damp roosts to allow them to go into torpor and survive periods of wet or cold weather when their food may be in short supply.

4.3 Tree Features Used By Bats

Bats do not have the physical capacity to build nests or create cavities for roosting and are dependent on the availability of naturally occurring tree features which can be utilised for roosting. A single pipistrelle bat may roost under loose bark, in branch splits or behind ivy, such sites are frequently found in most areas. In contrast larger bats may prefer cavities, such as old woodpecker holes, which will accommodate larger numbers of bats. Larger features are less common, and their availability could influence the local diversity of bats.

Bats use a broad diversity of tree features for different reasons at different times of year. Research of bat roosting ecology combined with reports of roosts found during tree work appears to indicate that any feature that offers space for a bat to squeeze into could be used at some time. Bats appear to show no preference for the size, age or species of tree they use for roosting, but some tree species do appear to have a propensity to forming and holding onto features that are favoured by bats as roost sites. For example, tree species like oak, pine, willow, and sweet chestnut are prone to developing splits in their branches and trunks, while ash, beech, poplar, and sycamore tend to be associated with cavities in their trunk and main branches.

Bats have been recorded using more than 30 different roost sites over the course of one summer season, with some species having been observed moving roosts every 2-3 days, while others show commitment to a few favoured sites. This may be an indication of species preferences, availability of suitable tree features, or even a means of avoiding predation. However, other species exhibit loyalty to a smaller number of significant roost sites that are used preferentially over others that may offer similar conditions.

5. RESULTS

5.1 Pre-survey data search

NatureScot nature designations within 5km include Barry Links Special Site of Scientific Interest SSSI and Barry Links Special Area of Conservation SAC.

National Biodiversity Network confirmed presence of Common pipistrelle *Pipistrellus pipistrellus*; Soprano pipistrelle *Pipistrellus pygmaeus*; and Brown Long-eared bat *Plecotus auritus* within 5km. Within 2km 23 records of Soprano pipistrelle have been recorded by the National Trust for Scotland at Barry Mill. 7 records of Soprano pipistrelle have been recorded in NO 5334 from 2011-2015 which fall within 1km.

5.2 Field surveys

5.2.1 Description of Habitats of potential value to bats

The trees on the site are predominantly coniferous and have limited potential to be of value for commuting and foraging bats. The area to the north-west of the site towards Barry Mill has greater potential for bats.

5.2.2 Bat Surveys

5.2.2.1 Preliminary roost assessment

Tree 901, along SE boundary



Along NE boundary



Tree 903, 902, 904



Along NW boundary



Tree 905



Tree 906



5.2.2.2 Grading Criteria

The grading criteria considers a bat value rating based on identification of features such as peeling, plated bark, splits, hollows, decayed stems and trunks, coalesced decay seams, fissures, cracks, standing dead trees and climbing vegetation cover. The presence of such features is assessed together with suitability as a roost site and the type of roost it could be. For example, a large, open

decay pocket is not as favourable for roosting as a large decay pocket with a narrow entrance, due to the increased exposure to the elements and predation experienced by the former. The longevity of such a feature is also considered.

The rating system provides a scoring method assessing the potential of a tree to provide features with suitable conditions for roosting bats. Additional notes will be taken when tree features are observed with evidence that could indicate current use by bats, but it should be noted that this is rarely found.

5.2.2.2 Scoring System for Grading Potential Roosting Features (PRFs) in Trees

Adapted from Collins (2016, p.35)

No.	Value	Description of Potential Roosting Features (PRFs)			Timescale
0	Negligible	Negligible habitat features on site likely to be used by roosting bats.			
1	Low	A tree of sufficient size and age to contain PRFs but with none seen from the ground or features seen with only very, limited roosting potential eg. 1-2 minor PRFs for individual bats.	PRFs associated with feeding or night-time roosts, easily replaced elsewhere.	Sparse ivy cover, minor branch splits, small sections loose or flaking bark.	0-10 years.
2	Moderate	PRFs provide a more secure form of roost for small groups of bats and individuals.	PRFs are common types of features	Dense ivy, significant branch splits, small cavities.	10-30 years.
3	High	PRFs of significance, suitable for high priority roosts, used by large numbers of bats.	PRFs offering conditions that are uncommon or rare in the local area.	Large cavities, extensive branch or trunk splits, multiple features in the same tree.	30+ years.
4	Confirmed Roost	Evidence found that indicates tree features are being used by bats.	Droppings found at the base of tree, below a cavity.	Bats heard 'chattering' inside a feature on a warm day or at dusk.	Bat(s) observed flying from a feature.

5.2.2.3 Tree Survey Results for Preliminary Bat Roost Assessment

Table 5.1 Tree Survey Schedule, numbers as *Appendix 3 Tree*

Locations and Numbering

Tree No.	Species	Notes	Roosting Potential (0-4) - category	Roost found	Proposed work	Implications for Proposed work
T901	L.cypress DBH 100mm x 7 Height 3m	Negligible potential features likely to be used by roosting bats.	0	No	Retain	No further survey required.
T902	L.cypress DBH 180, 140, 140, 110mm Height 4m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T903	L.cypress DBH 180, 150, 140mm Height 4m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.

T904	Picea spp. DBH 230mm Height 7m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T905	Ash DBH 280, 220, 160mm Height 9m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T906	Elder DBH 230mm Height 4m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T907	L.cypress DBH 180mm Height 3m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T908	L.cypress DBH 180mm Height 3m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	1	No	Fell	No further survey required.
T909	L.cypress DBH 310, 320mm Height 6m	A tree of sufficient size and age to contain PRFs features, with no features seen from the ground.	0	No	Reduce	No further survey required.

Table 5.1 shows that the trees at the new house plot at Mill Road have low or negligible bat roost potential features and therefore no further survey is required (Collins, 2016, p.51). Collins (2016, p.35) defines ‘low’ as ‘a tree of sufficient size and age to contain PRFs but with none seen from the ground or features seen with only very, limited roosting potential’. Negligible is a tree with negligible potential roosting features likely to be used by bats.

6. ASSESSMENT

6.1 Constraints on survey information

The survey data is accurate at the time of survey. Trees were surveyed from ground level, however, all identified potential roost features were accessible with the surveyor’s equipment. Further inspection of the identified potential roost features was undertaken at the time of the survey and no evidence of bats was found. Trees are dynamic, living organisms, in the event sufficient new evidence is found to upgrade the tree categories the trees should be re-surveyed (BS 8596, 2015, p.18).

6.2 Discussion

A preliminary survey to assess the potential likelihood of bat roosting features within the trees at the New House plot at Mill Road was carried out. A day-time ground level roost potential assessment was carried out. The tree survey demonstrated a low or negligible potential for the presence of bat roosting features for the trees at the site. Bats are a protected species, and it is an offence to intentionally, or recklessly, disturb a bat, in a shelter or resting place; or to damage or destroy a breeding or resting site. All bats and their roosts are legally protected because bats return to the same places every year, a bat roost is protected even if there are no bats there. No further surveys of trees with low or negligible potential bat roost features are required. There is potential to enhance bat roosting potential by installing bat boxes at the site on south-easterly through to south-westerly aspects. Retaining and planting of bat friendly trees, shrubs, and plants as part of works will enhance the habitat and as favourable habitat will remain in the wider local area it is not anticipated that there will be any long-term detrimental impact to foraging bats by the proposed work.

6.3 Potential impacts of development

It is not foreseen that the proposed work at the site will have a long-term detrimental impact to the bat population in the surroundings of site. There is potential to enhance bat roosting potential by installing bat boxes on south-easterly through to south-westerly aspects. Retaining and planting of bat friendly trees, shrubs and plants at the site will enhance the habitat for foraging bats. However, it cannot be guaranteed that a bat will not be found once work commences and any contractors on site should be aware of the potential of bats during works, and what to do in the event a bat is discovered.

7. NESTING BIRDS

There was evidence of common birds nesting in the trees and shrubs, including blackbirds and robins. All nesting birds receive legal protection therefore, any vegetation clearance or tree felling works should be timed to take place outside of the nesting season where feasible. It is recommended that for any vegetation clearance or tree felling works which are scheduled to take place during the breeding bird season, which is defined as April to July inclusive, that a breeding bird survey is carried out prior to any works taking place. In the event, that the pre-works survey discovers any nesting birds, or that after work has begun an active nest site is identified the nest site should be protected. An appropriate buffer zone depending on the species concerned and determined by an experienced ecologist should be maintained and works suspended in that area until the nest is no longer active. There is potential to provide alternative nesting opportunities for birds by installing nesting boxes at the site.

8. OTHER PROTECTED SPECIES

Protected species which have been previously recorded within 5km of the site include European water vole, otter, badger, and red squirrel. There was no evidence of these or any other protected species at the site.

9. RECOMMENDATIONS and MITIGATION

1. No further surveys are recommended at this time for trees with low or negligible potential unless sufficient new evidence is found to upgrade the tree category (BS 8596, 2015, p.18).
2. Bat roosts in trees can be difficult to find and there may be occasions when they are discovered after work has commenced, even though the correct pre-start roost assessment procedure has been followed. In the event, that bats or bat roosts are discovered during tree work operations, work should cease immediately or as soon as it is safe to do so, with the least possible further disturbance to the tree. NatureScot, formally Scottish Natural Heritage, and a licensed bat worker should be contacted as soon as possible, and the tree work should not recommence without the approval of the bat worker and the acquisition of any licence that might on their advice be required.
3. In the event the work results in live bats being discovered loose on the ground they should be placed in a well-ventilated dark container or box pending arrival of the bat worker, and fresh water should be provided in a shallow container such as a jam jar lid. Bats should never be handled with bare hands, and clean gloves should be worn while moving them.
4. Bat boxes installed on SE though to SW elevations, above 3m height will enhance roosting opportunities for bats in the area.

5. Any vegetation clearance or tree felling works should be timed to take place outside of the nesting bird season where feasible, or the site surveyed before work commences where work takes place during the nesting season. Provision of alternative nesting locations for common birds is recommended with the provision of bird boxes.
6. Retaining and planting of bat friendly trees, shrubs and plants will enhance the habitat for bats. *Appendix 4 Bat Friendly Plants*

10. REFERENCES

Bat Conservation Trust, 2015, “Encouraging bats - A guide for bat-friendly gardening and living” [Online]. Available at https://cdn.bats.org.uk/pdf/Resources/Encouraging_Bats.pdf?mtime=20181101151549&focal=none (accessed 17th June 2021)

British Standard (2015) “BS 8596-2015 Surveying for bats in trees and woodland – guide” [Online]. Further information available at <https://www.trees.org.uk/News-Blog/News/BS8596-Surveying-for-Bats-in-trees-and-woodland-%E2%80%93> (accessed 17th June 2021)

Collins, J (2016) “*Bat Conservation Trust, Bat Surveys for Professional Ecologists: Good Practice Guidelines, 3rd Edition*” [Online]. Available at https://cdn.bats.org.uk/pdf/Resources/Bat_Survey_Guidelines_2016_NON_PRINTABLE.pdf?mtime=20181115113931 (accessed 17th June 2021)

11. APPENDICES

- Appendix 1 Location Plan
- Appendix 2 Proposed Site Plan
- Appendix 3 Tree Locations and Numbering
- Appendix 4 Bat Friendly Plants

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Appendix 1 Location Plan



New Dwelling House Mill Road Barry

Site Location Plan

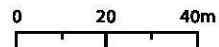
LEGEND

-  Land relating to this application
-  Adjoining land that we own

Produced: 14/12/2020

Reference: 20-B2693577-1

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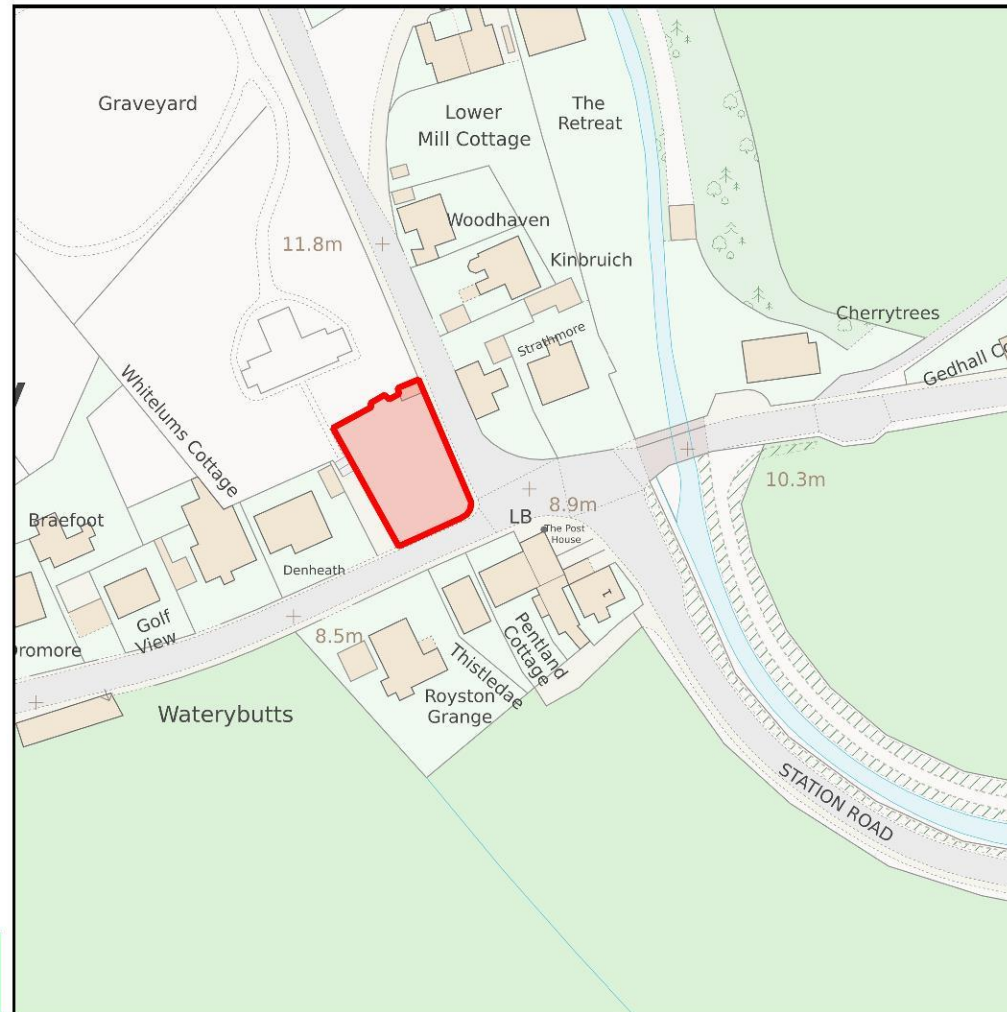


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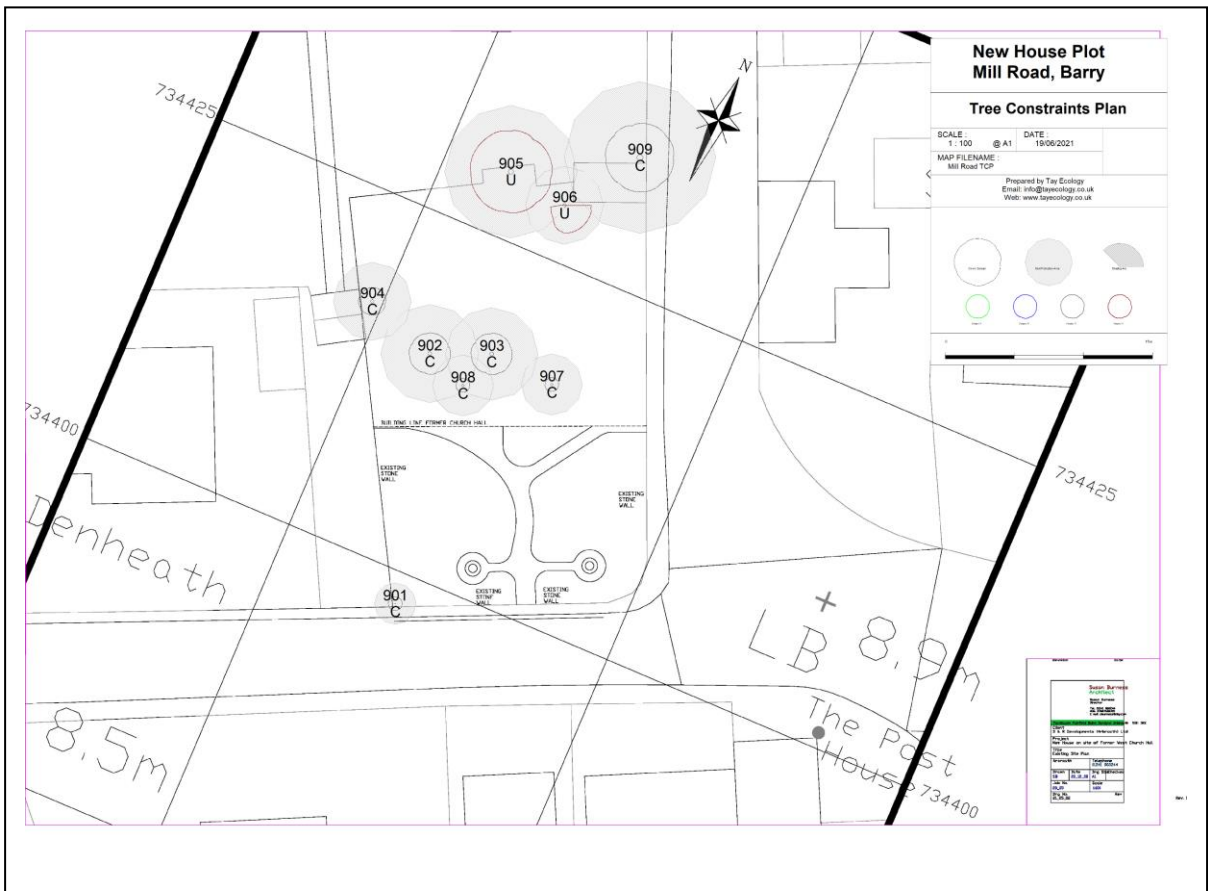
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Appendix 3 Tree Locations and Numbering



Appendix 4 Bat Friendly Plants

From BCT (2015) Encouraging bats - A guide for bat-friendly gardening and living

Planting a mixture of flowering plants, trees and shrubs will attract a range of insects which in turn will attract different bat species.

Flowers for borders

Aubretia	Night-scented stock
Bluebell	Ox-eye daisy
Candytuft	Phacelia
Cherry pie	Poached egg plant
Corncockle	Primrose
Cornflower	Red campion
Corn marigold	Red valerian
Corn poppy	Scabious
Echinacea	St John's wort
Field poppies	Sweet William
Honesty	Tobacco plant
Ice plant "Pink lady"	Verbena
Knapweed	Wallflowers
Mallow	Wood forget-me-not
Mexican aster	Yarrow
Michaelmas daisy	Night-scented stock

Herbs

Angelica	Hyssop
Bergamot	Lavenders
Borage	Lemon balm
Coriander	Marjoram
English marigolds	Rosemary
Fennel	Sweet Cicely
Feverfew	Thyme

Trees, shrubs, and climbers

Bramble	Hawthorn
Buddleia	Hazel
Common alder	Honeysuckle
Dog rose	Hornbeam
Elder	Ivy
English oak	Jasmine
Gorse	Pussy willow
Guelder rose	Rowan

Wildflowers for pond edges and marshy areas

Bog bean	Marsh marigold
Bugle	Marsh woundwort
Creeping jenny	Meadowsweet
Flag iris	Purple loosestrife
Hemp agrimony	Water avens
Lady's smock	Water forget-me-not
Marsh mallow	Water mint

LANDSCAPING AND BIODIVERSITY

It is clear from the Tree survey and correspondence from the Structural Engineer that.

- The existing trees to the rear of the site require to be removed, irrespective of whether the development goes ahead.
- On removal of the trees underpinning will be required to the existing retaining wall, irrespective of whether the development goes ahead.
- A further 3 trees have root systems currently adversely affecting the existing wall. Again, this requires to be addressed irrespective of whether the development goes ahead.
- The remaining trees on site are non-native low-quality trees of little ecological value.
- The proposals include replacing existing trees with native trees.
- The proposals will enhance biodiversity and have a positive ecological impact.

The existing open space will not be lost due to the development as the new house is located on the brownfield part of the site.

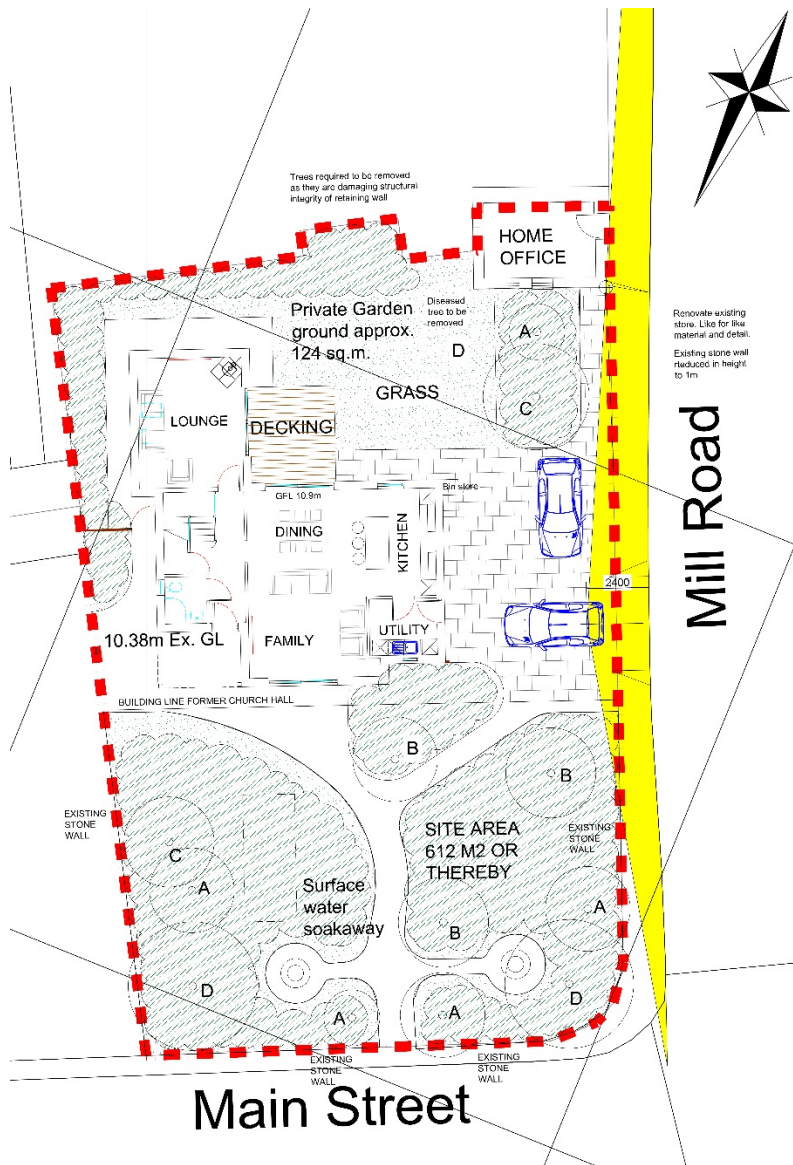
With regards to statements from objectors.

The open space to the south of Main Street, which is apparently currently used as garden ground, is not part of the curtilage of a dwelling house.

- As it is on the other side of the road to residential properties
- Is out with the Barry development boundary.

It is therefore subject to the same statutory rights of access as the development site.

It is clear from our submission and comments from objectors that action requires to be taken to address the current condition of the site. The current proposals present the opportunity to resolve these issues while still maintaining a green landscaped corner to the junction of Mill Street and Main Road.



TREES

- | | | | |
|--|---|--|---|
| A- Crab Apple
(<i>Malus sylvestris</i>)
10 m | B- ROWAN
(<i>Sorbus aucuparia</i>) | C- Whitebeam
(<i>Sorbus intermedia</i>) | D- SILVER BIRCH
(<i>Betula paendula</i>) |
|--|---|--|---|

SHRUBS

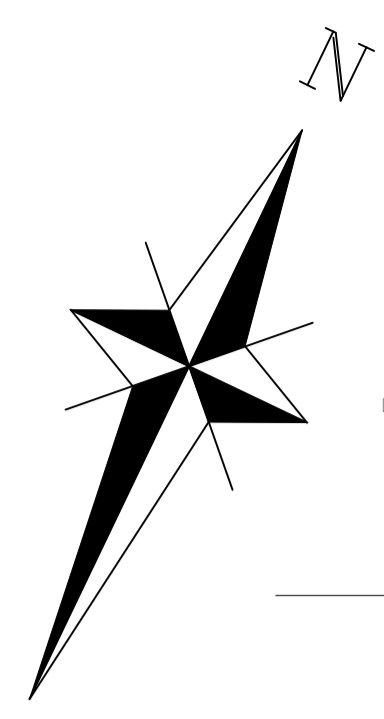
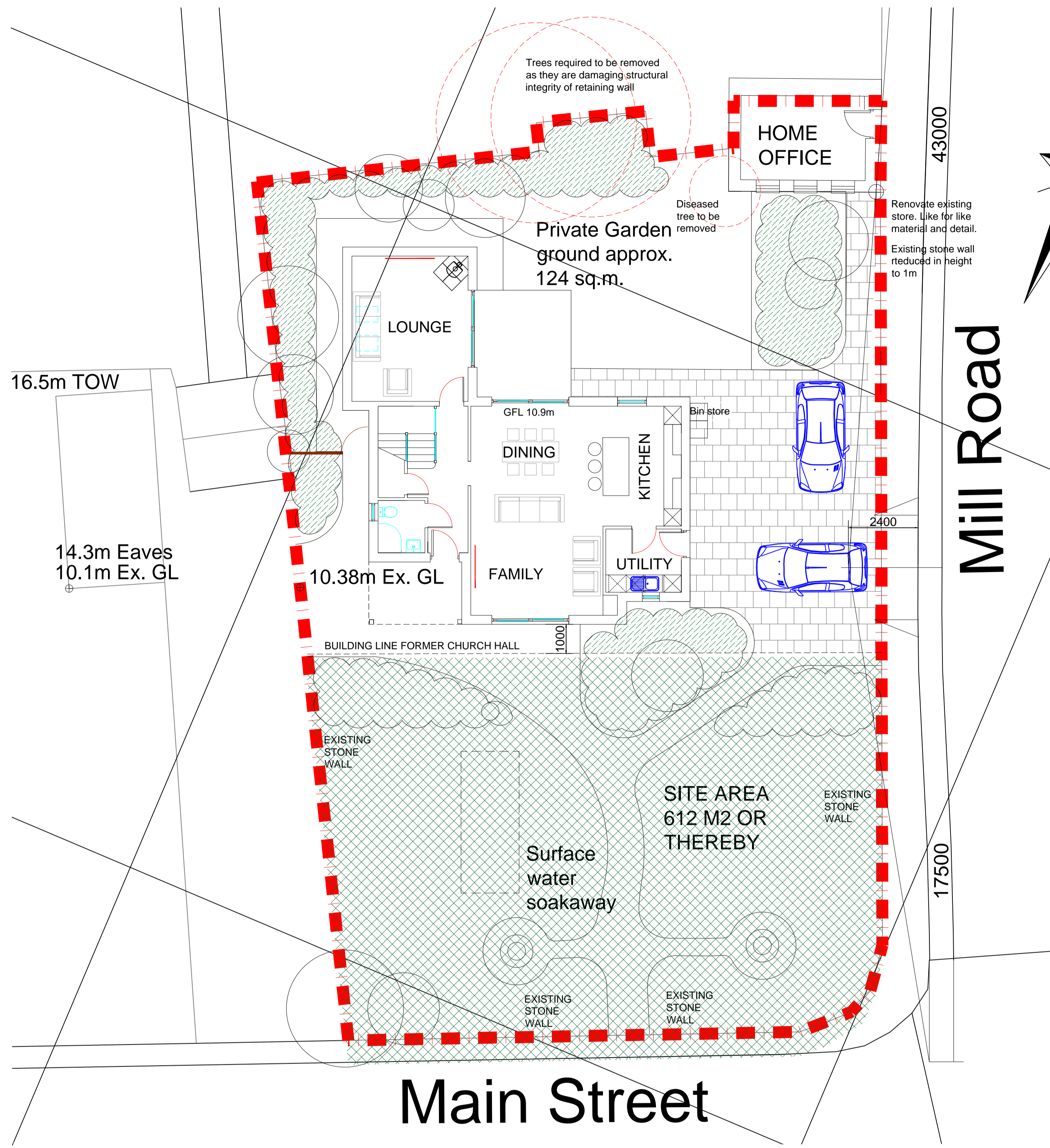
- | | | | | | |
|---------------------------------------|---|---|--|--------------------------------------|--|
| A-HOLLY
(<i>Ilex aquifolium</i>) | B-EARED WILLOW
(<i>Salix aurita</i>) | C-BLACKTHORN
(<i>Prunus spinosa</i>) | D-HAZEL
(<i>Corylus avellana</i>) | E-DOG ROSE
(<i>Rosa canina</i>) | F- JUNIPER
(<i>Juniperus comm.</i>) |
|---------------------------------------|---|---|--|--------------------------------------|--|

WILDFLOWERS AND FERN

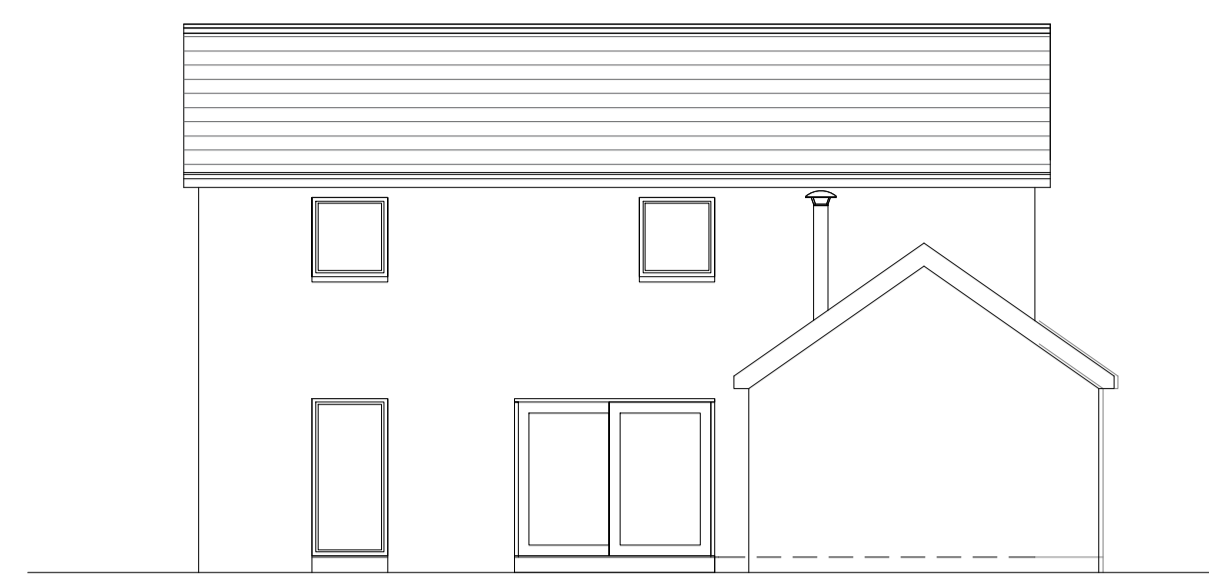
- | | | | | |
|-----------------|-------------|--------------------|-------------|-----------------|
| Native Bluebell | Globeflower | Melancholy Thistle | Wild garlic | Violet Primrose |
|-----------------|-------------|--------------------|-------------|-----------------|



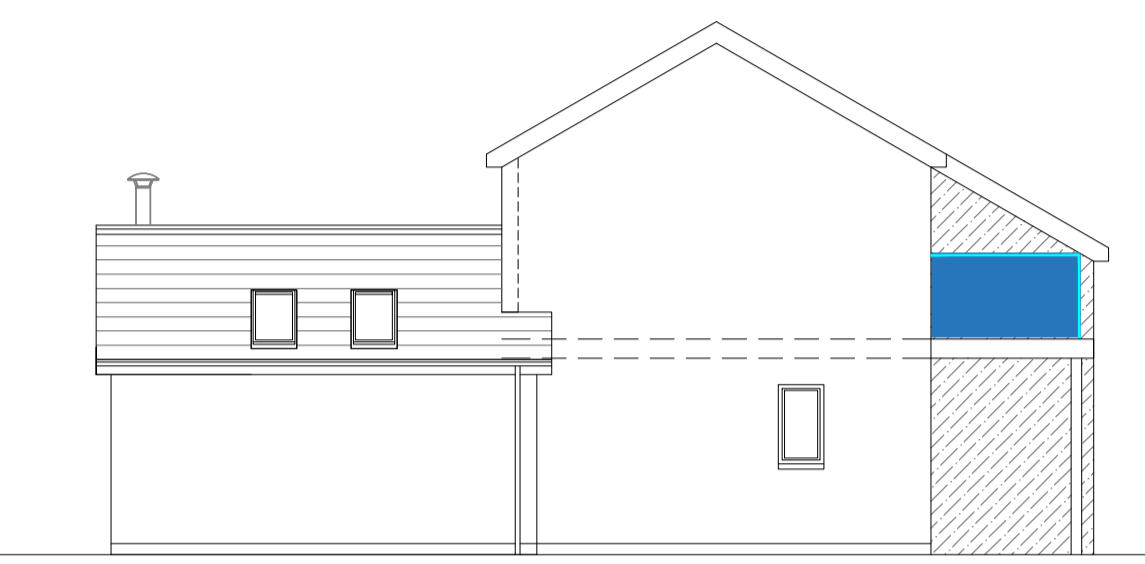
MIXTURE OF NATIVE SHRUBS AND WILD FLOWERS AND FERN TO PROMOTE BIODIVERSITY



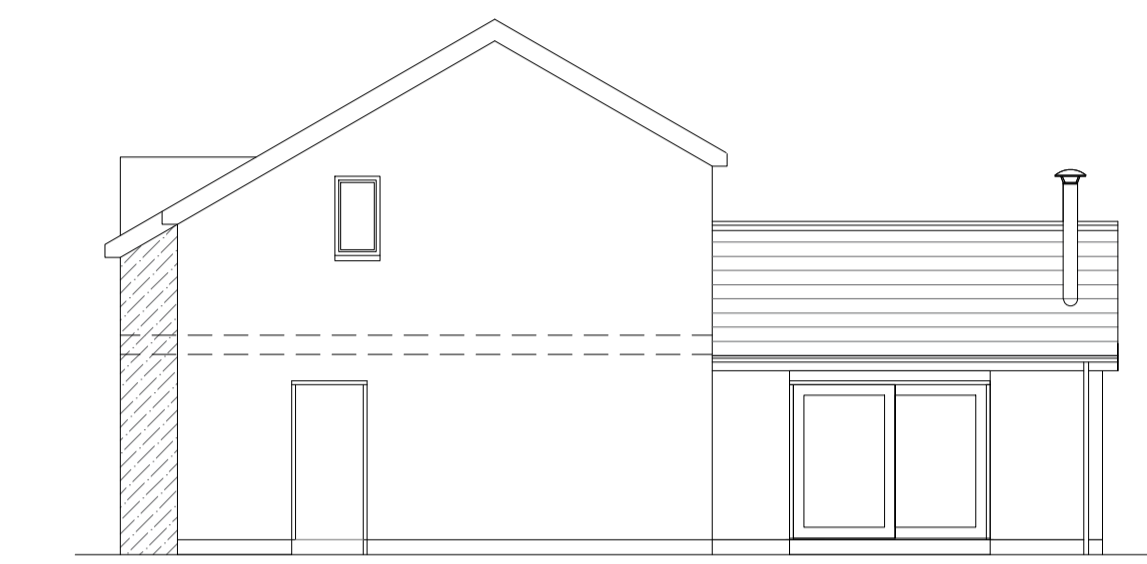
SOUTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

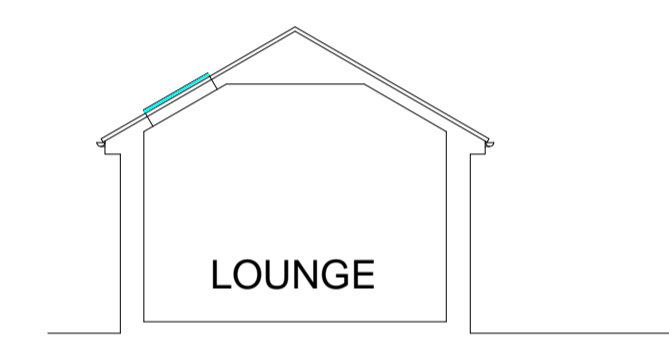


EAST ELEVATION

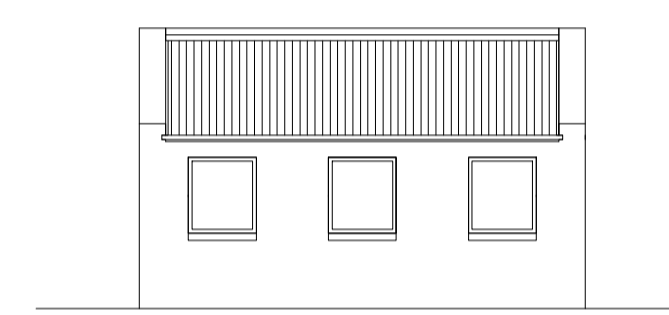
NOTES
ROOF- SLATE GREY TILES
WALLS- OFF WHITE RENDER/
RECONSTITUTED STONE
WINDOWS/ DOORS- GREY UPVC
FACIA AND SOFFIT- GREY UPVC



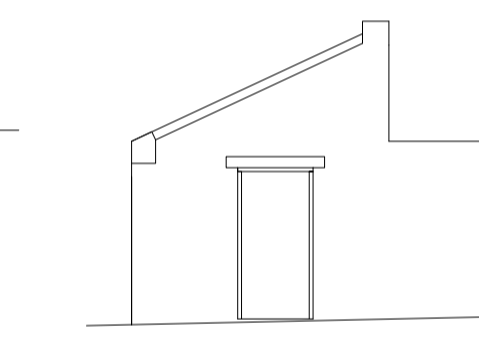
SECTION AA



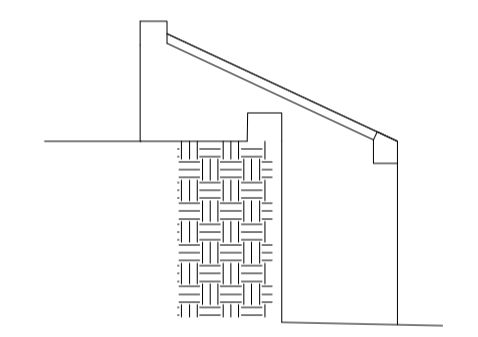
SECTION BB



South Elevation



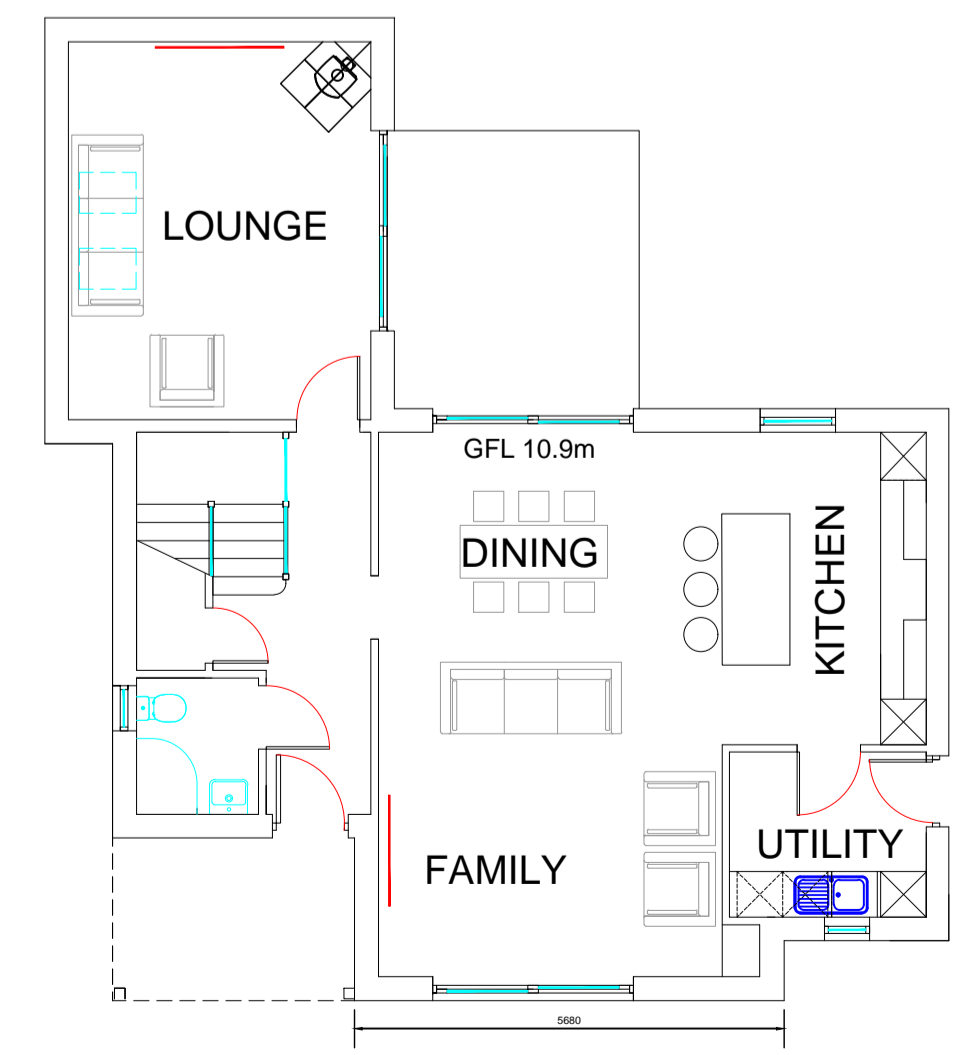
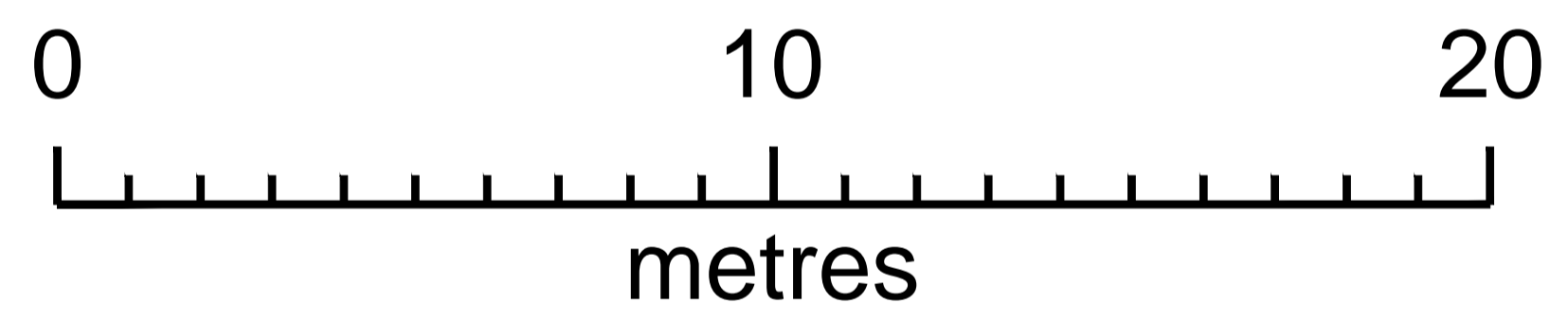
East Elevation



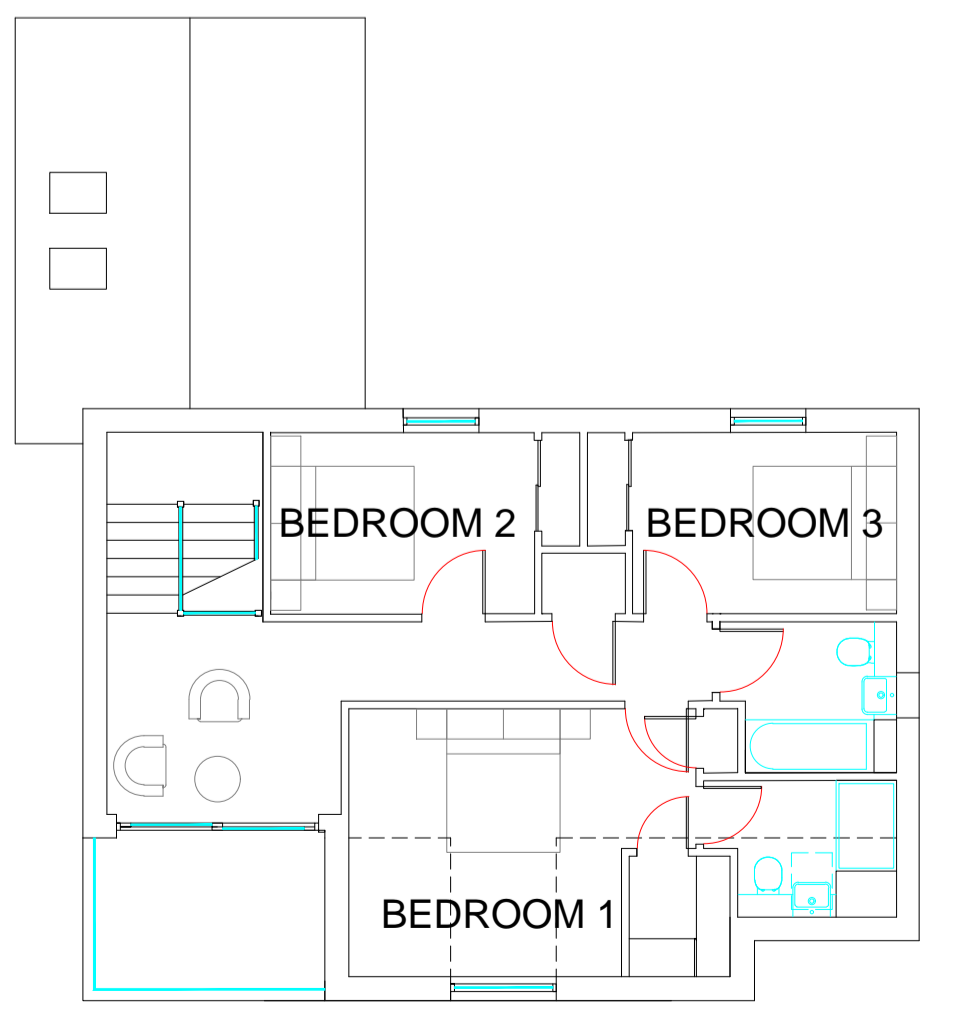
West Elevation

Existing stone store to be converted into home office. Corrugated metal roofing. Existing stone repointed where it is missing/defected in lime mortar.

EXISTING STORE/
HOME OFFICE



GROUND FLOOR PLAN

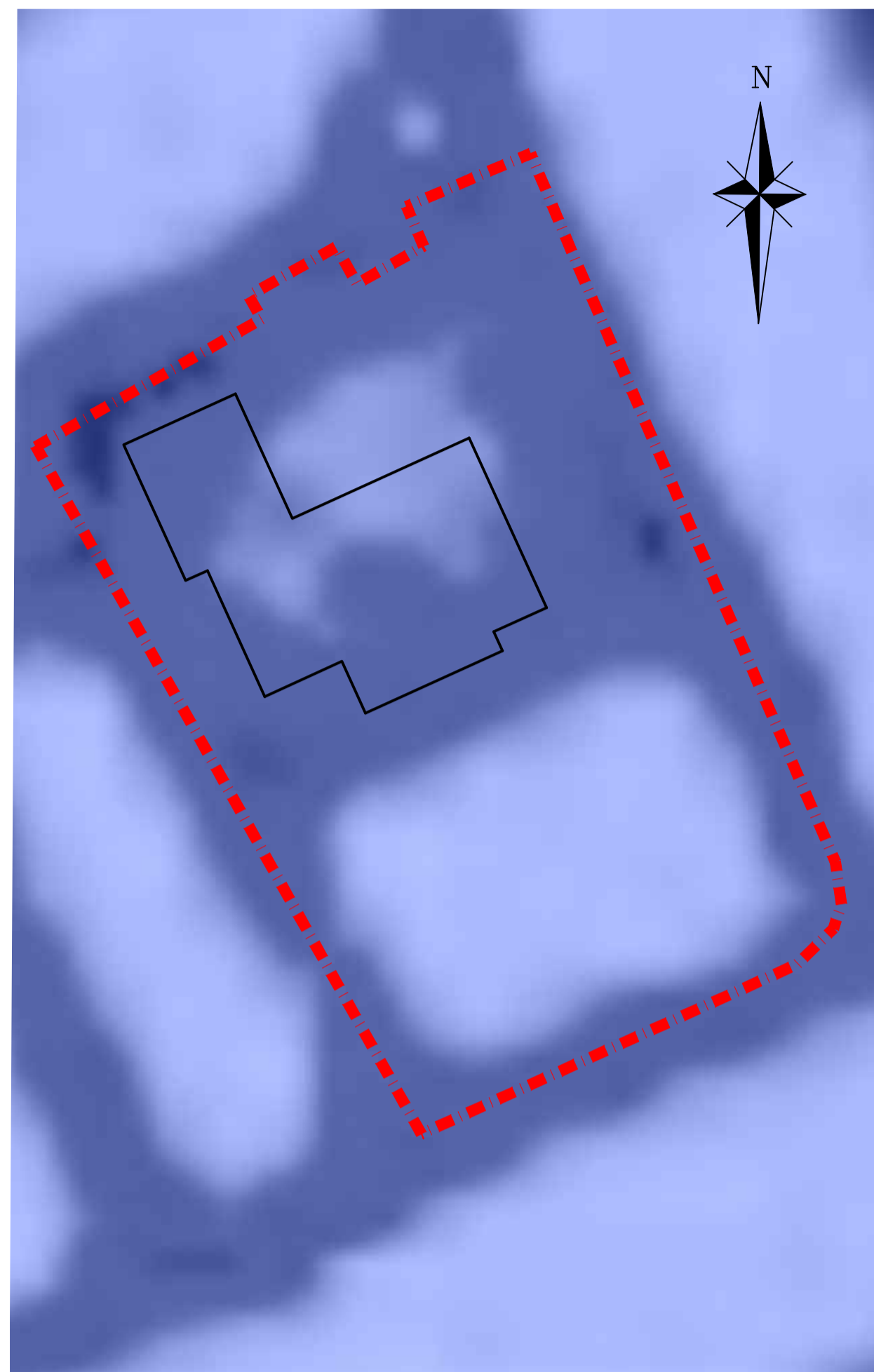


FIRST FLOOR PLAN



Revision	Date
Rev. B Existing trees to be removed.	09/02/21
Rev. C House design changed to 3 Bedroom	10/03/21

<p>Susan Burness Architect Susan Burness Designer Tel: 01241 862244 Mob: 0787966105 E-mail: susan@bellgram.co.uk</p>			
<p>Client: S & R Developments (Arbroath) Ltd</p>			
<p>Project: New House on site of Former West Church Hall</p>			
<p>Title: Plans, Sections and Elevations</p>			
Arbroath	Telephone	01241 862244	
Drawn	Date	Dwg Size	Checked
SB	20_12_08	A1	
Job No.	20_05	Scale	1:100
Dwg No.	21_05_02		Rev



0 10 20 SCALE 1:200
metres

DWELLING HOUSE LOCATED ON FOOTPRINT OF FORMER CHURCH HALL



Historic OS map illustrating Structure covering > 50% site area.



Existing store and gable end of former Church Hall forming site boundary.



Area to the North of the site is covered with gravel.



Rubbish littering the site



Leylandii to be removed new planting to be variety of native species.



Rubbish left on site



Existing retaining wall forming North Boundary.



Diseased tree to be removed..



Existing derelict building on site



Retaining wall in dangerous condition

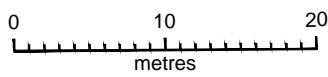
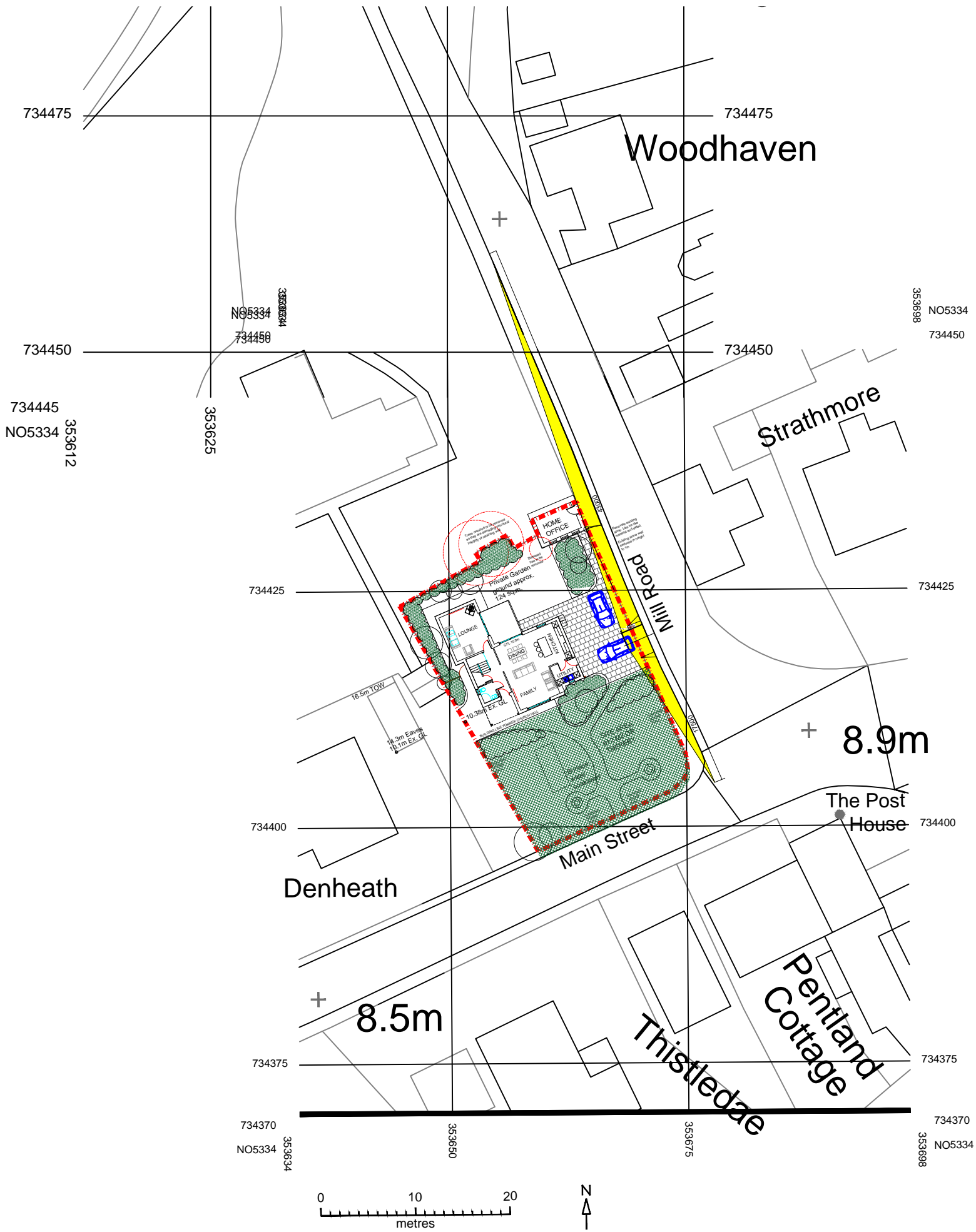
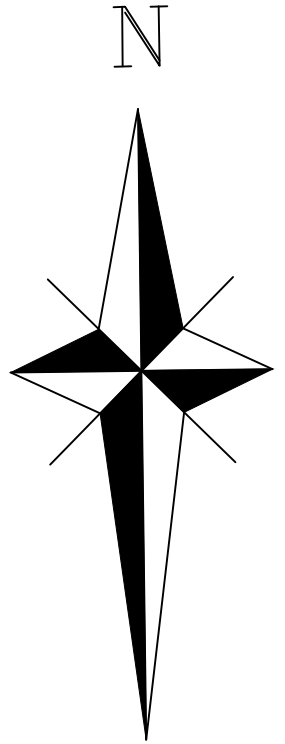
The site is the former location of West Church Hall and associated gardens. The footprint of the former hall was approximately 350 sq.m. The land on which the former hall was located is in generally hard standing with areas of encroaching vegetation. During the site visit rubbish and debris was evident.

The south part of the site is the former garden area associated with the Church Hall. Lack of maintenance has resulted in this area also becoming over grown.

The proposed house is located to the North of the site on land that is within the foot print of the former Church Hall. The gardens will be reinstated as a landscaped area.

Revision		Date	
Susan Burness Architect Director Tel: 01241 860244 Mob: 0781608105 E: s.burness@sky.com			
Client S & R Developments (Arbroath) Ltd			
Project New House on site of Former West Church Hall			
Title Site Analysis			
Arbroath		Telephone 01241 860244	
Drawn SB	Date 20_12_08	Dwg Size A1	Checked
Job No. 20_05	Scale N.T.S.		Rev
Dwg No. 21_05_03			

ITEM 9



Crown copyright 2020 Ordnance Survey 100053143

Revision _____ Date _____

Susan Burness Architect Susan Burness Director Tel. 01241 860244 Mob. 07887686105 E mail sburness@sky.com			
Farmhouse Fairfield Mains Gardyne Arbroath DD11 3RX			
Client S & R Developments (Arbroath) Ltd			
Project New House on site of Former West Church Hall			
Title Site Plan			
Arbroath		Telephone 01241 860244	
Drawn SB	Date 24_02_21	Drg Size A3	Checked
Job No. 20_05		Scale 1:500	
Drg No. 21_05_04			Rev

APPENDIX 3

FURTHER LODGED REPRESENTATIONS

Jane Conley

From: [REDACTED]
Sent: 24 January 2022 21:58
To: Sarah Forsyth
Subject: Re: Application for Review - Rest Garden, Main Street, Barry

Hi
Thanks for this
Planning should not be granted or the decision overturned. Local people have said they do not want more houses being built it overstretched local schools, drs and too many open spaces green spaces are being lost. Barry is a small village, we need the green spaces
Carol venables

[Sent from Yahoo Mail on Android](#)

On Mon, 24 Jan 2022 at 21:29, Sarah Forsyth
<ForsythSL@angus.gov.uk> wrote:

Dear Sir/Madam

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

Application for Review – Refusal of Planning Permission for Erection of a Dwellinghouse at Rest Garden, Main Street, Barry – S & R Developments (Arbroath) Ltd

Application No 21/00279/FULL - DMRC-1-22

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 Lead – Planning and Sustainable Growth. 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 contacting me directly.

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

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Angus Council | T: 01307 491985| ForsythSL@angus.gov.uk | www.angus.gov.uk

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Jane Conley

From: Hugh McKenzie [REDACTED]
Sent: 26 January 2022 15:16
To: Sarah Forsyth
Subject: Re: Application for Review - Rest Garden, Main Street, Barry
Attachments: refused decision notice.pdf

I wish to make further representation in favour of planning permission being granted. The land under question was never a Rest Garden but the ground of the demolished Barry Church Hall. To my knowledge this land has never been a protected open space PV2 and TC2 should not be relevant. The people who have objected saying they use this land constantly have never used this for any recreational reason. They all have private gardens at their properties and they do not want any dwelling going up there. The only thing the ground is being used for is dog walkers to allow their animals to defecate there.

Sent from my iPhone

On 24 Jan 2022, at 22:28, Sarah Forsyth <ForsythSL@angus.gov.uk> wrote:

Dear Sir/Madam

Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013
Application for Review – Refusal of Planning Permission for Erection of a Dwellinghouse at Rest Garden, Main Street, Barry – S & R Developments (Arbroath) Ltd
Application No 21/00279/FULL - DMRC-1-22

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 Lead – Planning and Sustainable Growth. 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.

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

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Angus Council | T: 01307 491985 | ForsythSL@angus.gov.uk
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From: [REDACTED]
Sent: 31 January 2022 13:32
To: Sarah Forsyth
Subject: Application No 21/00279/FULL - DMRC-1-22

Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013
Application for Review – Refusal of
Planning Permission for Erection of a Dwellinghouse at Rest Garden, Main Street, Barry – S & R Developments (Arbroath) Ltd
Application No 21/00279/FULL - DMRC-1-22

Dear Ms Forsyth,

I am writing to support the applicant's appeal against the decision to refuse planning permission on the site reference above. Please also refer to comments previously made by me on this application (under email address simon.jan@blueyonder.co.uk).

1. Under PV2:

- a. It is not possible to consider this site as an 'open air' amenity as it is uneven, overgrown, has low walls to pavements and two exits, both opening directly onto roads, one of which is a bus route.
- b. Residents' own gardens are more of an amenity than the site is in its current state.
- c. There is no other open space in the village to provide 'a replacement open space of a similar type and of at least equal quality, community benefit and accessibility to that being lost'
- d. However, work is being done with a view to creating an alternative amenity to mitigate for that being lost. Please see Section 3 below.

2. Under TC2:

- a. The site is not formally allocated or protected for another use according to the Angus Local Development Plan of 2016.
- b. The site was previously built on, housing a church hall, later demolished on safety grounds.

As a member of Barry Parish Church, I wish to emphasise the benefit of granting planning permission for the benefit of our local community.

3. Barry Parish Church, which owns the land, has been involved in Future Planning work since July 2021, with the aim of benefitting our community through creating a multi-purpose indoor village amenity in the church building. The following points are relevant:

- a. The proceeds from the sale with planning permission will significantly support this work.
- b. We hosted an Open Meeting in October 2021 to consult with local people to find out how they would like to use this building and, in this way, promote and increase community facilities. A second Open Meeting is being planned.
- c. The current proposal (see Section e below) will be modified if the need is identified. We will require a significant amount of capital to undertake such work.
- d. We are being supported in this work by Rhonda McFarlane, Strategic Policy & Project Officer on Angus Council and by Voluntary Action Angus.
- e. At present, we propose to reconfigure internal areas by upgrade the toilet and kitchen facilities and creating an additional multi-purpose indoor open area. The proposals will be modified if the need is identified. We will require a significant amount of capital to undertake such work.

f. The setting up of Resilience Centres in village halls is recognised as beneficial for times of adverse events. There is potential to use the church building as such a Centre if the proposed internal reconfiguration takes place.

g. If, after internal reconfiguration, the building is considered suitable for hosting essential services, including a voting centre, health clinics, social support and the like, the community benefits increase significantly.

h. As the proposed dwelling house will occupy the only 'open' site in Barry, the proposal will mitigate the loss of one outdoor space by replacing it with two indoor, all-weather spaces for community use.

i. The community will benefit from the development described above, albeit through replacing an outdoor facility with an indoor one, in a building which is maintained and has existed in Barry for over 100 years.

j. There is no other space in the village, indoor or outdoor, for community use.

Angus Council is therefore urged, for the reasons outlined above, to reconsider the refusal of planning permission on this site.

The granting of permission will allow our local church to host activities that can confer significant benefits for people in this area, in respect of physical and mental health, social support, access to a range of activities locally and encourage community involvement of Barry Village and surrounding areas.

Thank you
Janet Scott

Jane Conley

From: Kate Hall [REDACTED]
Sent: 07 February 2022 20:07
To: Sarah Forsyth
Subject: Re: Application for Review - Rest Garden, Main Street, Barry

Dear Ms Forsyth,

Thank you for your email. Apologies for the late arrival of this email.

I think the committee were correct in their original decision to refuse permission and offer these additional thoughts. for consideration:

- 1) The applicants have already had to make significant cuts to their original plan in an attempt to (amongst other things) ensure the vehicle access (onto Mill Rd) meets the road safety standards required. This requirement has still not been met, as can clearly be seen from the 'improved sight-line' plans (the ones with the magic car you apparently drive from the parcel shelf!).
- 2) Given that the site is subject to public access rights and rights of access and contains a well-established right of way, it's hard to see any sales appeal in a private house with a public garden.
- 3) It's plain to see that buyers with the budget to buy the proposed house (small, dark, bad access, no mains gas, no garage, no garden) would get a far better deal by simply buying one of the many available properties in either of the new developments bordering Carnoustie (Pitskelly or Carlogie).
- 4) A layman taking a cursory glance at the rear retaining wall could see that to shore it up and secure it well enough to withstand the strain of the necessary house foundations being dug would require a lot of work by skilled specialists, which must surely be a prohibitive cost.

Put simply, the idea that an appealing house could be built on this site and sold to turn a profit is wildly optimistic. If this development is allowed to go ahead the site will certainly end up as either an unsellable house or a big ugly abandoned hole in the ground.

This wee patch of land has been a site used for the good of the village for over a hundred years, and the site (and the community which surrounds it) deserves a future which continues that.

Yours with thanks,

Kate Hall

On Mon, 24 Jan 2022 at 21:28, Sarah Forsyth <ForsythSL@angus.gov.uk> wrote:

Dear Sir/Madam

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

Application for Review – Refusal of Planning Permission for Erection of a Dwellinghouse at Rest Garden, Main Street, Barry – S & R Developments (Arbroath) Ltd

Application No 21/00279/FULL - DMRC-1-22

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 Lead – Planning and Sustainable Growth. 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.

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I can also advise that a copy of the Notice of Review and other documents related to the review can be viewed by contacting me directly.

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

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Angus Council | T: 01307 491985 | ForsythSL@angus.gov.uk | www.angus.gov.uk

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Jane Conley

From: Melanie Coleman [REDACTED]
Sent: 30 January 2022 20:17
To: Sarah Forsyth
Subject: Application review: refusal of planning permission for erection of dwelling house at Rest Garden, Main St. , Barry- S&R Developments Ltd. Application No 21/00279/Full-DMRC-1-22

Dear Ms Forsyth,

Regarding the above referenced planning application.

I would just like to reiterate, as noted on letter sent to notify local residents, of refusal, that this application is a contravention of Angus Council local development plan PV2 and TC2.
I can not see how a house can be built on that site with out effecting the protected area of land and open space usage.

1 dwelling house will not significantly improve housing in the village, particularly since there is a major housing development under way at Pitskelly in Carnoustie

The line of site for accessing the street

from the drive is questionable as turning onto the Mill Rd. at the place were the drive is placed on the application is effectively a blind spot and there is a high probability of an accident. Traffic turning on to the Mill Rd. would not be able to see the drive or a car coming out of it in a timely enough way to prevent a potential accident and a car exiting the property would not be able to effectively see on coming traffic until a car is quite far out into the street.

The stability of the stone walls with any up rooting of trees and brush could be severely impacted. Those walls are in poor condition and would require major investment to ensure that the ground is stabilised. That is a consideration for the graveyard above the proposed house site and for the financial viability of the proposal.

It has also been note in previous comments in support of this development that the Church of Scotland wishes this sale to proceed to raise funds to do repair work on the village church. This Church has a very small aging and declining congregation, the building itself is not used much as there is the main church in Carnoustie.

The church has actively not maintained the grounds for a considerable period of time, and have left it to local residents to look after it's up keep. Since there is uncertainty about the future of the site, it has become over grown. Local residents have become unwilling to invest time and effort into the site if it going to not be something for the enjoyment of the village

Contrary to representations that that site is unused are even in its current state are not true, as it is used still by people out on walks with their families and dogs on a daily basis. So to the villagers it is an asset of an open space. With a bit of time and energy could once again be a lovely garden for the community to enjoy to it's fullest.

I can not support the plan of a dwelling house on this site, as it adds no real value to the village or to the people who live in the village.

I am puzzled why the developers have perused this development with such vigor, given it will no doubt end up costing more than the actual end product will be worth.

The last thing the village needs is an overpriced house, that can not be sold because the nature of the setting and caveats that go with it.

So with that, I hope that the review upholds the original decision.

With regards

Melanie Coleman
Taigh Na Phoiste
Main St., Barry DD77RP

Jane Conley

From: Mike Hall [REDACTED]
Sent: 28 January 2022 19:05
To: Sarah Forsyth
Subject: Re: Application for Review - Rest Garden, Main Street, Barry

Hello Sarah,

Thanks for you email regarding the review of the Barry Rest Garden refusal.

As an objector I only have a couple more things to add at this stage.

Firstly, One of my original objections is that the developers claim to have me the required visibility splays for a car pulling out into the road from within the boundary of the plot. This is simply not true. As is clearly seen in the drawings, the car symbol (a hatchback) is shown REVERSING out of the plot. ie, it has no bonnet sticking ot into the road and the yellow sightline area is actually from the rear window, as if the driver were sitting in the back seat, looking out. As you can see from my other drawings on this matter, if the car is correctly orientated, then the 43mtr sightline cannot be met. This point seems to have been entirely overlooked by the applicant and the Roads Department, this comment is from Page 9 of the Report of Handling: *"The comments regarding road safety concerns and related matters are noted but the roads service has reviewed the proposal and has offered no objection subject to conditions."*

I feel that only a cursory look has been given to the applicants drawings. I can re-submit my objection images if required.

Secondly, we know that the Church of Scotland needs at least £40,000 for refurbishment works at Barry Church. This is the sole reason this application exists. No one actually wants a house here, I can't imaging this awkward little site will be hugely profitable for the developers, after all the required groundworks are carried out.

This is a direct quote, also from Page 9 of the Report of Handling: *"Comments relating to the site sale proceeds being reinvested into the church estate are noted but do not justify a departure from the development plan and no other material considerations are identified which justify a departure from the local development plan"*

Yours,

Mike Hall
[REDACTED]

On Mon, 24 Jan 2022 at 21:28, Sarah Forsyth <ForsythSL@angus.gov.uk> wrote:

Dear Sir/Madam

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

Application for Review – Refusal of Planning Permission for Erection of a Dwellinghouse at Rest Garden, Main Street, Barry – S & R Developments (Arbroath) Ltd

Application No 21/00279/FULL - DMRC-1-22

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 Lead – Planning and Sustainable Growth. 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.

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I can also advise that a copy of the Notice of Review and other documents related to the review can be viewed by contacting me directly.

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

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Angus Council | T: 01307 491985 | ForsythSL@angus.gov.uk | www.angus.gov.uk

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Jane Conley

From: rosemary docherty [REDACTED]
Sent: 31 January 2022 15:50
To: Sarah Forsyth
Subject: Barry Garden REF 21/00279/Full

With reference to the refusal of planning permission for the garden of Barry Church. This site was previously BUILT on for the CHURCH HALL which was regularly used in many different ways. It was never a REST GARDEN. We plan to use the proceeds of the sale to alter the layout of the church by removing the front and side pews ,which would give an open space ,also adding extra toilets .All this is indoors and would greatly benefit the community for many different things .as there is nothing like this in the area. During the recent storms many people were displaced and had to go into halls for shelter, this could also be used in an emergency. The site has now become very overgrown and untidy and frankly an eyesore. I hope you will reconsider the application

Regards
Rosemary Docherty

Regards
Rosemary Docherty

Sent from [Mail](#) for Windows

Jane Conley

From: shirley murison [REDACTED]
Sent: 29 January 2022 12:45
To: Sarah Forsyth
Subject: Application for Planning for Rest Garden Main St Barry

I would like to make further representation in favour of planning permission being granted for the above site. Firstly it was never a Rest Garden but the site of former West Hall I also don't recall it being protected open space. Residents also had every opportunity to take over and look after the ground it certainly isn't used for recreational purposes.

PV2 and TC2 should not be relevant.

Objectors can't seem to see that a house would enhance that piece of land which belongs to Barry Church.

I strongly advise that permission is granted.

S. Murison

Get [Outlook for iOS](#)

APPENDIX 4

APPLICANT RESPONSE TO FURTHER LODGED REPRESENTATIONS

Jane Conley

From: S Burness <sburness@sky.com>
Sent: 20 February 2022 12:15
To: Sarah Forsyth
Subject: Re: Application for Review - Rest Garden, Main Street, Barry

Dear Sarah,
Please find attached my comments on representations submitted.
Kind regards
Susan Burness

On Wednesday, 16 February 2022, 10:34:02 GMT, Sarah Forsyth <forsythsl@angus.gov.uk> wrote:

Dear Madam

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

Application for Review – Refusal of Planning Permission for Erection of a Dwellinghouse at Rest Garden, Main Street, Barry – S & R Developments (Arbroath) Ltd

Application No 21/00279/FULL - DMRC-1-22

I refer to the above application for review and to previous correspondence, and write to advise you that I have received further representations from the interested parties.

In accordance with the legislation, I am now forwarding copies of these to you.

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

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Angus Council | T: 01307 491985 | ForsythSL@angus.gov.uk | www.angus.gov.uk

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Planning Review- Application 21/00279/FULL

Response to Representations

In accordance with the letters of support I would, in the first instance, reiterate that the site is not and has never been designated a rest garden and have previously written to the council to object to the application being referred to as such. It is the site of the former West Church Hall.

The proposed development has been demonstrated to be in accordance with the local plan.

- In all locations, proposals that re-use or make better use of vacant, derelict, or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.
- The site is not allocated as open space in the current Local Development Plan
- The Local Development Plan indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

Efforts have been made to attract local interest in the site, as documented in previous correspondence, and these have all been unsuccessful. The only use made of the site is by dog walkers allowing their pets to defecate.

In its present condition, the site is totally unsuitable for use by the public. In particular, the rear section of the site contains remains of former church hall and derelict store. The objectors have highlighted the instability of the stone walls as an issue, which reinforces the case that works are required to secure the future of the existing structures.

We do not consider there is a lack of open space at Barry. It is a rural settlement surrounded by open space with easy access to open countryside, the nature trail, Barry Mill and Barry Buddon. If it is considered there is a lack of open space in the wider Barry/ Carnoustie area, this should have been addressed as part of the major housing development underway at Pitskelly in Carnoustie. This would allow appropriate conditions to be attached to ensure maintenance and protection of the open space.

Access to the site

Safe vehicular access to the site has been established and agreed with the Roads Department. The illustration of the car and its orientation are purely indicative and have no relation on how site lines are calculated.

Site

With regards to objectors comments that the plot is small and compares unfavourably to development at Pitskelly, I would point out in accordance with Phase 1 Master Plan of Pitskelly drawing 4030/PD/01Ver 1, the average plot size for **detached** dwelling is just over 300 sq.m which is less than half the size of the site at Barry and indeed significantly less than the area of the section of the site formally occupied by the footprint of the church hall, which is approximately 350sq.m.

The proposed site is significantly larger than most surrounding plots, with a greater extent of private rear garden ground than the neighbouring properties.

Conclusion

The proposed development has been demonstrated to be in accordance with the local plan.

Creates much needed residential property and reduces pressure on greenfield land.

It is close to existing infrastructure, including public transport.

Creates a well maintained and environmentally friendly garden at the junction of Main Street and Mill Road.

Improves the appearance of the site which, as agreed by all parties, has become an eyesore.

Secures the future of existing masonry structures on the site.

Uphold the human rights of the Congregation of Barry Church to use their possession for the benefit of themselves and, as outlined within the letters of support, for the benefit of the wider community

